
STATUTORY INSTRUMENTS

2001 No. 3968

**The Private and Voluntary Health
Care (England) Regulations 2001**

**PART I
GENERAL**

Prescribed techniques or technology and exceptions to the definition of independent hospital

3.—(1) Subject to paragraph (2), for the purposes of section 2 of the Act, “listed services” include treatment using any of the following techniques or technology—

- (a) a Class 3B or Class 4 laser product, as defined in Part I of British Standard EN 60825–1 (Radiation safety of laser products and systems)⁽¹⁾;
 - (b) an intense light, being broadband non-coherent light which is filtered to produce a specified range of wavelengths; such filtered radiation being delivered to the body with the aim of causing thermal, mechanical or chemical damage to structures such as hair follicles and skin blemishes while sparing surrounding tissues;
 - (c) haemodialysis or peritoneal dialysis;
 - (d) endoscopy;
 - (e) hyperbaric oxygen therapy, being the administration of pure oxygen through a mask to a patient who is in a sealed chamber which is gradually pressurised with compressed air, except where the primary use of that chamber is—
 - (i) pursuant to regulation 6(3)(b) of the Diving at Work Regulations 1997⁽²⁾ or regulation 8 or 12 of the Work in Compressed Air Regulations 1996⁽³⁾; or
 - (ii) otherwise for the treatment of workers in connection with the work which they perform; and
 - (f) in vitro fertilisation techniques, being treatment services for which a licence may be granted under paragraph 1 of Schedule 2 to the Human Fertilisation and Embryology Act 1990⁽⁴⁾.
- (2) Listed services shall not include treatment using the following techniques or technology—
- (a) treatment for the relief of muscular and joint pain using an infra-red heat treatment lamp;
 - (b) treatment using a Class 3B laser where such treatment is carried out by or under the supervision of a health care professional; and
 - (c) the use of an apparatus (not being an apparatus falling within paragraph (1)(b)), for acquiring an artificial suntan, consisting of a lamp or lamps emitting ultraviolet rays.

(1) Copies of BS EN 60825-1 may be obtained from BSI Customer Services, 389 Chiswick High Road, London W4 4AL.
(2) S.I. 1997/2776.
(3) S.I. 1996/1656.
(4) 1990 c. 37.

(3) For the purposes of section 2 of the Act, establishments of the following descriptions are excepted from being independent hospitals—

- (a) an establishment which is a hospital by virtue of section 2(3)(a)(i) of the Act solely because its main purpose is to provide medical or psychiatric treatment for illness or mental disorder but which provides no overnight beds for patients;
- (b) an establishment which is a service hospital within the meaning of section 13(9) of the Armed Forces Act 1981⁽⁵⁾;
- (c) an establishment which is, or forms part of, a prison, remand centre, young offender institution or secure training centre within the meaning of the Prison Act 1952⁽⁶⁾;
- (d) an establishment which is an independent clinic by virtue of regulation 4;
- (e) an establishment (not being a health service hospital) which has as its sole or main purpose the provision by a general practitioner of general medical services within the meaning of Part II of the NHS Act or personal medical services in connection with a pilot scheme under the National Health Service (Primary Care) Act 1997; and such an establishment shall not become an independent hospital as a result of the provision of listed services to a patient by such a general practitioner;
- (f) the private residence of a patient or patients in which treatment is provided to such patient or patients, but to no-one else;
- (g) sports grounds and gymnasias where health professionals provide treatment to persons taking part in sporting activities and events; and
- (h) a surgery or consulting room, not being part of a hospital, where a medical practitioner provides medical services solely under arrangements made on behalf of the patients by their employer or another person.

(4) Sub-section (7) of section 2 of the Act shall be modified by adding at the end of paragraph (e) (cosmetic surgery) the following—

- “(a) other than—
- (i) ear and body piercing;
 - (ii) tattooing;
 - (iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; and
 - (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

⁽⁵⁾ 1981 c. 55.

⁽⁶⁾ 1952 c. 52. Amended by section 170(1) of and paragraphs 11 and 12 of Schedule 15, and Schedule 16, to the Criminal Justice Act 1988 (c. 33); sections 5(2), 18(3) and 168(3) of, and Schedule 11 to, the Criminal Justice and Public Order Act 1994 (c. 33); section 119 of, and paragraph 6 of Schedule 8 to, the Crime and Disorder Act 1998 (c. 37); and section 165(1) of, and paragraph 5 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6). Subsection (1)(a) of section 43 is to be repealed by sections 59 and 75 of, and Schedule 8 to, the Criminal Justice and Court Services Act 2000 (c. 43) on a date to be appointed.