
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (“the 2014 Regulations”).

Regulation 3 provides that the 2014 Regulations (as amended by these Regulations) are to cease to have effect after 31st March 2022 (seven years after they come fully into force on 1st April 2015). As a consequence of the Regulations ceasing to have effect at that time, regulation 16 amends regulation 27 of the 2014 Regulations to provide for a review of the operation and effect of the 2014 Regulations within five years of 1st April 2015, rather than every five years. Following the review it will fall to the Secretary of State to consider whether the Regulations should be allowed to expire as provided, be revoked early, or continue in force with or without amendment. A further instrument would be needed to continue the Regulations in force with or without amendments or to revoke them early.

Regulation 4 amends regulation 2 of the 2014 Regulations to make provision for the purposes of section 20A of the Health and Social Care Act 2008 (Care Quality Commission functions relating to processing of information by registered persons), to reflect a difference in terminology between the 2014 Regulations and the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 (“the 2010 Regulations”).

Regulations 5, 7 and 8 amend regulations 4, 6 and 7 respectively of the 2014 Regulations. These amendments: (a) add a requirement for the following persons to have competence for their role: individual service providers, partners in a partnership which is a service provider, nominated individuals and registered managers; and (b) make provision as to matters to be considered when assessing the character of such persons for the purposes of those roles.

Regulation 6 amends regulation 5 of the 2014 Regulations (fit and proper persons: directors) to provide that directors of all service providers that are a body other than a partnership, not just health service bodies, have to meet a fit and proper person test.

Regulation 10 amends regulation 20 of the 2014 Regulations (duty of candour) to extend the requirement to be candid when a notifiable safety incident occurs to apply to all service providers, not just health service bodies. Regulation 10(5) sets out the type of safety incidents that, when they occur, will result in the duty of candour applying.

Regulation 11 inserts a new regulation 20A into the 2014 Regulations. This new provision requires registered persons to display, at their premises and on their websites, ratings of the service provider’s performance given by the Care Quality Commission (“CQC”). Service providers’ websites must also show the CQC’s website address and the place on CQC’s website where the assessment and ratings of the provider’s performance may be accessed.

Regulation 9 amends regulation 8 of the 2014 Regulations to make further provision consequential on the extension of both the duty of candour to all service providers, not just health service bodies, and the insertion of new regulation 20A into the 2014 Regulations.

Regulation 12 amends regulation 22 (offences) of the 2014 Regulations to make it an offence to breach the requirements imposed by new regulation 20A. Regulation 13 amends regulation 23 (offences: penalties) of the 2014 Regulations to provide for a penalty for those who commit such an offence. Regulations 12 and 13 also make provision consequential on the extension of the duty of candour to all service providers by regulation 10.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 14 amends regulation 25 of the 2014 Regulations (revocations) to make a saving provision in relation to the definitions of “nursing care” and “personal care” used in the 2010 Regulations, for the purposes of section 73 of the Care Act 2014 (Human Rights Act 1998: provision of regulated care or support etc a public function).

Regulation 15 amends regulation 26 of the 2014 Regulations (transitional and transitory provision) to remove paragraph (2) of regulation 26, which will cease to have effect on the day that these Regulations come into force.

Regulation 17 amends Schedule 5 of the 2014 Regulations to provide for a breach of new regulation 20A to be a fixed penalty offence for the purposes of section 86 of the Health and Social Care Act 2008 and for the amount of the penalty. It also makes provision consequential on the extension of the duty of candour to all service providers.

A full impact assessment of the costs and benefits of this instrument is available from the Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS (www.gov.uk/government/organisations/department-of-health) and is published alongside this instrument and its Explanatory Memorandum at www.legislation.gov.uk.