

**2010 No. 2649**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Amendment (No.2) Regulations 2010**

<i>Made</i>	- - - -	<i>30th October 2010</i>
<i>Laid before Parliament</i>		<i>3rd November 2010</i>
<i>Coming into force</i>	- -	<i>1st December 2010</i>

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 7, 8, 272(7) and 273(1) and (4) of the National Health Service Act 2006(a).

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Amendment (No.2) Regulations 2010 and come into force on 1st December 2010.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002(b).

**Amendment of the principal Regulations in relation to responsibility of Primary Care Trusts for continuing health care**

2.—(1) The principal Regulations are amended as set out in the following paragraphs.

(2) In regulation 2 (interpretation), in paragraph (1)—

(a) after the definition of “LIFT” insert—

““NHS-funded nursing care” means nursing care that a Primary Care Trust has determined that a person needs pursuant to direction 2 of the National Health Service (Nursing Care in Residential Accommodation (England) Directions 2007(c);” and

(b) for the definition of “planned service”(d) substitute—

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(a) 2006 c.41; section 273(4) was amended by S.I. 2010/22, Schedule 2, paragraph 126. By virtue of section 271 of the Act the powers of the Secretary of State as exercised in making these regulations are exercisable only in relation to England; see section 275(1) for the definition of “regulations”.

(b) S.I. 2002/2375.

(c) These Directions were made on 30th August 2007 and came into force on 1st October 2007; direction 2 was amended by the National Health Service (Nursing Care in Residential Accommodation) (Amendment) (England) Directions 2009 which were made on 28th September 2009 and came into force on 1st October 2009. Both sets of directions can be found at <http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Directionsfromthesecretaryofstate>.

(d) This definition was inserted by S.I. 2006/359.

““planned service” means any service the provision of which is planned and arranged by a Primary Care Trust as part of the health service in response to the results of an assessment of a person’s physical or mental health needs and which is intended to bring about or promote a specific outcome in relation to those needs;”.

(3) In regulation 3 (functions of the Secretary of State exercisable by Strategic Health Authorities and Primary Care Trusts)(a)—

(a) for paragraph (7A)(a) substitute—

“(a) on or after 1st December 2010, a Primary Care Trust (“the placing PCT”) has made an arrangement in the exercise of its functions under paragraph (7)(a) by virtue of which a person aged 18 or over is to be provided with services to meet their continuing health care needs which consist of or include the provision of—

- (i) accommodation in a care home or independent hospital situated in the area of another Primary Care Trust, and
- (ii) one or more planned service (other than a service consisting only of NHS-funded nursing care) which is connected to the provision of such accommodation (whether or not the accommodation is provided or secured by the placing PCT); and”;

(b) for paragraph (7B) substitute—

“(7B) The placing PCT shall continue to exercise the functions referred to in paragraphs (1) and (2) for the benefit of a person referred to in paragraph (7A) in so far as those functions consist of providing or securing the provision of the accommodation or services referred to in paragraph (7A)(a)(i) and (ii).”.

Signed by authority of the Secretary of State for Health.

30th October 2010

*Paul Burstow*  
Minister of State,  
Department of Health

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(a) Paragraphs (7A) and (7B) were inserted by S.I. 2006/359.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which apply in relation to England, further amend the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 (“the principal Regulations”).

Regulation 2 amends paragraphs (7A) and (7B) of regulation 3 of the principal Regulations, which determine which Primary Care Trust shall be responsible for providing, or securing the provision of, accommodation in a care home or independent hospital and/or connected NHS services where one Primary Care Trust (“the placing PCT”) makes arrangements for a person to be placed in the area of another Primary Care Trust in order to meet his continuing care needs. The amendments provide that the placing PCT shall meet the cost of planned NHS services, whether or not those services include nursing except in cases where the only planned service is NHS-funded nursing care.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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