

**This publication was withdrawn on 1 April 2022**

These directions have now expired, but are preserved here for reference.

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## DIRECTIONS

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### NATIONAL HEALTH SERVICE, ENGLAND

#### The Exercise of Commissioning Functions by the National Health Service Commissioning Board (Coronavirus) (No. 3) Directions 2020

The Secretary of State for Health and Social Care gives the following Directions in exercise of the powers conferred by sections 253, 272(7) and (8), and 273(1) of the National Health Service Act 2006(a).

The Secretary of State considers that the incidence of severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) in England constitutes an emergency for the purposes of section 253(1) of that Act, and that accordingly it is appropriate to give these Directions.

#### Citation, commencement and application

1.—(1) These Directions may be cited as the Exercise of Commissioning Functions by the National Health Service Commissioning Board (Coronavirus) (No. 3) Directions 2020 and come into force on 19th December 2020.

(2) These Directions are given to the Board.

#### Interpretation

2. In these Directions—

“the Act” means the National Health Service Act 2006;

“the Board” means the National Health Service Commissioning Board(b);

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“coronavirus disease” means COVID-19(c);

“independent provider” means any person (other than an NHS body(d)) that provides health services for the purposes of the NHS;

“the NHS” has the meaning given in section 64(4) of the Health and Social Care Act 2012(e).

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- (a) 2006 c. 41. Section 253 was amended by section 47(1) to (6) of the Health and Social Care Act 2012 (c. 7). By virtue of section 273(4)(c), directions under section 253 must be given by regulations or an instrument in writing.
- (b) The National Health Service Commissioning Board (known as “NHS England”) was created by section 1H of the National Health Service Act 2006, as inserted by section 9(1) of the Health and Social Care Act 2012.
- (c) That is the official designation of the disease which can be caused by coronavirus.
- (d) See section 275 of the National Health Service Act 2006 for the definition of “NHS body”, as inserted by paragraph 138(2)(c) of Schedule 4 to the Health and Social Care Act 2012.
- (e) Section 64(4) was amended by S.I. 2012/2657.

### **Board to exercise functions of clinical commissioning groups**

**3.**—(1) The Secretary of State directs the Board to exercise the following functions of clinical commissioning groups(**a**), in accordance with paragraph (2)—

- (a) functions under section 3 of the Act (duties of clinical commissioning groups as to commissioning certain health services)(**b**);
- (b) functions under section 3A of the Act (power of clinical commissioning groups to commission certain health services)(**c**).

(2) The functions mentioned in paragraph (1) must be exercised by the Board during the period ending on 31st March 2021—

- (a) for the purposes of commissioning health services from independent providers, and
- (b) as the Board deems appropriate, for the purposes of directly or indirectly supporting the provision of services by NHS bodies to address coronavirus and coronavirus disease.

(3) These Directions do not preclude the exercise of any function under section 3 or 3A of the Act by a clinical commissioning group.

### **Date on which these Directions cease to have effect**

**4.** These Directions cease to have effect at the end of 31st March 2021.

### **Revocation and saving**

**5.**—(1) The Exercise of Commissioning Functions by the National Health Service Commissioning Board (Coronavirus) (No. 2) Directions 2020(**d**) given on 27th March 2020 (“the second Directions”) are revoked.

(2) Notwithstanding the revocation of the second Directions, the second Directions continue to have effect in relation to any function exercised by the Board pursuant to those Directions before the making of these Directions.

Signed by authority of the Secretary of State for Health and Social Care



William Vineall  
Member of the Senior Civil Service  
Department of Health and Social Care

Date: 18th December 2020

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(a) Clinical commissioning groups were established by virtue of sections 11 and 14A to 14D of the National Health Service Act 2006, as inserted by sections 10 and 25(1) of the Health and Social Care Act 2012.

(b) Section 3 was amended by section 13(1) to (7) of the Health and Social Care Act 2012.

(c) Section 3A was inserted by section 14 of the Health and Social Care Act 2012.

(d) The second Directions can be viewed at: <https://www.gov.uk/government/publications/the-exercise-of-commissioning-functions-by-the-nhs-commissioning-board-coronavirus-directions-2020>.