

Draft Order laid before Parliament under section 162(3) of the Health and Social Care Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 000

**NATIONAL HEALTH SERVICE
PUBLIC HEALTH
SOCIAL CARE**

**The Health and Social Care Act 2008
(Consequential Amendments No.2) Order 2010**

Made - - - - 2010

Coming into force - - 1st October 2010

The Secretary of State makes the following Order in exercise of the powers conferred by sections 161(3) and (4) and 167 of the Health and Social Care Act 2008(1).

A draft of this Order was laid before Parliament in accordance with section 162(3) of the Health and Social Care Act 2008 and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 and comes into force on 1st October 2010.

(2) The amendment of any provision by this Order has the same extent as the provision being amended.

Amendment of the National Assistance Act 1948

2. In section 26 of the National Assistance Act 1948 (provision of accommodation in premises maintained by voluntary organisations)(2), in subsection (1A)(b), for the words from “person” onwards substitute—

“person—

(1) 2008 c. 14.

(2) 1948 c. 29; section 26(1A) was inserted by the Health Services and Public Health Act 1968 (c. 46), section 44(1) and substituted by the Community Care (Residential Accommodation) Act 1992 (c. 49), section 1(1) and the Care Standards Act 2000 (c. 14) (“the 2000 Act”), Schedule 4, paragraph 1(3).

- (i) in the case of a home in England, is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of a regulated activity (within the meaning of that Part) carried on in the home, or
- (ii) in the case of a home in Wales, is registered under Part 2 of the Care Standards Act 2000 in respect of the home.”.

Amendments of the Prison Act 1952

3. In Schedule A1 to the Prison Act 1952 (further provision about Her Majesty’s Chief Inspector of Prisons)(3), in paragraph 4 (co-operation), omit paragraphs (f) and (g) (which relate to the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection).

Amendments of the Greater London Council (General Powers) Act 1981

4.—(1) In section 16 of the Greater London Council (General Powers) Act 1981 (exemption for certain purposes)(4)—

- (a) in paragraph (g), omit “, or an independent hospital,”; and
- (b) after paragraph (g) insert—

“(ga) used—

- (i) as a hospital as defined by section 275 of the National Health Service Act 2006, or
- (ii) for the provision of any of the services listed in subsection (2), but not used as a health service hospital as defined by section 275 of the National Health Service Act 2006;”.

(2) Renumber section 16 as so amended as subsection (1) of that section and after that provision insert—

“(2) The services referred to in subsection (1)(ga)(ii) are as follows—

- (a) medical treatment under anaesthesia or intravenously administered sedation;
- (b) dental treatment under general anaesthesia;
- (c) obstetric services and, in connection with childbirth, medical services;
- (d) termination of pregnancies;
- (e) cosmetic surgery, other than—
 - (i) ear and body piercing;
 - (ii) tattooing;
 - (iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or
 - (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

Amendments of the Mental Health Act 1983

5.—(1) The Mental Health Act 1983(5) is amended as follows.

(3) 1952 c.52; Schedule A1 was inserted by the Police and Justice Act 2006 (c. 48).
 (4) 1981 c. 17; paragraph (g) of section 16 was substituted by the 2000 Act, Schedule 4, paragraph 29(2). Paragraph (gg) of section 16 was inserted by the Children Act 1989 (c. 41), Schedule 13, paragraph 73 and substituted by the 2000 Act, Schedule 4, paragraph 29(3).
 (5) 1983 c. 20.

(2) In section 24 (visiting and examination of patients)(6), in subsection (3)(b), after “Part II of the Care Standards Act 2000” insert “or Part 1 of the Health and Social Care Act 2008”.

(3) In section 34 (interpretation of Part 2)(7), in subsection (1), for the definition of “registered establishment” substitute—

““registered establishment” means an establishment which would not, apart from subsection (2) below, be a hospital for the purposes of this Part and which—

- (a) in England, is a hospital as defined by section 275 of the National Health Service Act 2006 that is used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, which relates to the assessment or medical treatment of mental disorder and in respect of which a person is registered under Chapter 2 of that Part; and
- (b) in Wales, is an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under this Act;”.

(4) In section 119 (practitioners approved for Part 4 and section 118)(8)—

- (a) in subsection (2)(a), for “establishment of any description” substitute “regulated establishment (other than a hospital)”; and
- (b) for subsection (3) substitute—

“(3) In this section “regulated establishment” means—

- (a) an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or
- (b) premises used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, in respect of which a person is registered under Chapter 2 of that Part.”.

(5) In section 145 (interpretation)(9)—

(a) for the definition of “independent hospital” substitute—

““independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;”;

(b) in the definition of “the managers” for paragraph (c) substitute—

“(c) in relation to a registered establishment—

- (i) if the establishment is in England, the person or persons registered as a service provider under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the regulated activity (within the meaning of that Part) relating to the assessment or medical treatment of mental disorder that is carried out in the establishment, and

(6) Relevant amendments to section 24(3) were made by S.I. 2000/90, Schedule 1, paragraph 16(5); the 2000 Act, Schedule 4 paragraph 9(3); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 4, paragraph 54 and the Mental Health Act 2007 (c. 12), section 9(7) and Schedule 3, paragraph 11(3).

(7) The definition of “registered establishment” was inserted by the 2000 Act, Schedule 4, paragraph 9(4).

(8) Relevant amendments to section 119 were made by the Mental Health Act 2007 (c. 12), section 35(2)(a) and the Health and Social Care Act 2008 (c. 14), Schedule 3, paragraph 7(3).

(9) The definition of “independent hospital” was inserted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(b) and in the definition of “the managers” paragraph (c) was substituted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(c).

- (ii) if the establishment is in Wales, the person or persons registered in respect of the establishment under Part 2 of the Care Standards Act 2000;”.

Amendments of the Greater London Council (General Powers) Act 1984

6. In section 10 of the Greater London Council (General Powers) Act 1984 (buildings to which Part 4 of Act applies)(**10**), in subsection (2)—

- (a) in paragraph (c), omit “, or an independent hospital;”;
- (b) after paragraph (c) insert—
- “(ca) used for the provision of any of the services listed in subsection (3);”;
- (c) after subsection (2), add—
- “(3) The services referred to in paragraph (ca) of subsection (2) are as follows—
- (a) medical treatment under anaesthesia or intravenously administered sedation;
- (b) dental treatment under general anaesthesia;
- (c) obstetric services and, in connection with childbirth, medical services;
- (d) termination of pregnancies;
- (e) cosmetic surgery, other than—
- (i) ear and body piercing;
- (ii) tattooing;
- (iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or
- (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

Amendments of the Children Act 1989

7.—(1) The Children Act 1989(**11**) is amended as follows.

(2) In section 62 (duties of local authorities)(**12**), in subsection (6)(c), after “Care Standards Act 2000” insert “or section 20 of the Health and Social Care Act 2008”.

(3) In section 105 (interpretation)(**13**), in subsection (1), for the definition of “independent hospital” substitute—

- ““independent hospital”—
- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;”.

Amendment of the National Health Service and Community Care Act 1990

8. In section 48 of the National Health Service and Community Care Act 1990 (inspection of premises used for provision of community care services)(**14**)—

(10) 1984 c. 27; in section 10(2), paragraph (c) was substituted by the 2000 Act, Schedule 4, paragraph 30(2).

(11) 1989 c. 41.

(12) Section 62(6)(c) was amended by the 2000 Act, Schedule 4, paragraph 14(1), (10)(a).

(13) The definition of independent hospital was inserted by the 2000 Act, Schedule 4, paragraph 14(1), (23)(a)(vi).

(14) 1990 c. 19; section 48(1) was amended by the 2000 Act, Schedule 4, paragraph 15.

- (a) in subsection (1), for “(other than premises in respect of which any person is registered under Part II of the Care Standards Act 2000)” substitute “(other than regulated premises)”; and
- (b) after subsection (1), insert—
 - “(1A) In subsection (1) “regulated premises” means—
 - (a) in relation to England, premises used for the carrying on of a regulated activity within the meaning of Part 1 of the Health and Social Care Act 2008 by a person who is registered under Chapter 2 of that Part in respect of the activity; and
 - (b) in relation to Wales, premises in respect of which a person is registered under Part 2 of the Care Standards Act 2000.”.

Amendment of the Local Government Finance Act 1992

9. In Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount)(**15**), in paragraph 7 (patients in homes in England and Wales), in sub-paragraph (2), for the definition of “independent hospital” substitute—

““independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.”.

Amendments of the Powers of Criminal Courts (Sentencing) Act 2000

10. In Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 (requirements which may be included in supervision orders)(**16**), in paragraph 6 (requirements as to treatment for mental condition)—

- (a) in sub-paragraph (2)(a)—
 - (i) for “an independent hospital or” substitute “a”, and
 - (ii) after “Care Standards Act 2000” insert “, an independent hospital”; and
- (b) for sub-paragraph (5) substitute—
 - “(5) In sub-paragraph (2)—
 - (a) “independent hospital”—
 - (i) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, and
 - (ii) in relation to Wales, has the same meaning as in the Care Standards Act 2000; and
 - (b) “registered psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.”.

(15) 1992 c. 14; paragraph 7(2) of Schedule 1 was substituted by the 2000 Act, Schedule 4, paragraph 20(c).

(16) 2000 c. 6; paragraph 6(2)(a) of Schedule 6 was amended by the 2000 Act, Schedule 4, paragraph 28(3) and paragraph 6(5) was substituted by S.I. 2009/1182, article 4(2), Schedule 5, Part 1, paragraph 5(b).

Amendment of the Community Care (Delayed Discharges etc) Act 2003

11. In section 12 of the Community Care (Delayed Discharges etc) Act 2003 (interpretation)(**17**), for the definition of “independent hospital” substitute—

““independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;”.

Amendments of the Licensing Act 2003

12. In section 16 of the Licensing Act 2003 (applicant for premises licence)(**18**)—

(a) in subsection (1)—

- (i) in paragraph (g), after “hospital” insert “in Wales”, and
- (ii) after paragraph (g) insert—

“(ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England;”;

(b) in subsection (3), for the definition of “independent hospital” substitute—

““independent hospital”—

(a) in relation to England, means—

- (i) a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, or
- (ii) any other establishment in which any of the services listed in subsection (4) are provided and which is not a health service hospital as so defined; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;”;

and

(c) after subsection (3) add—

“(4) The services referred to in paragraph (a)(ii) of the definition of “independent hospital” are as follows—

- (a) medical treatment under anaesthesia or intravenously administered sedation;
- (b) dental treatment under general anaesthesia;
- (c) obstetric services and, in connection with childbirth, medical services;
- (d) termination of pregnancies;
- (e) cosmetic surgery, other than—
 - (i) ear and body piercing;
 - (ii) tattooing;
 - (iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or
 - (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

(17) 2003 c. 5; to which there are amendments not relevant to this Order.

(18) 2003 c. 17; to which there are amendments not relevant to this Order.

Amendments of the Sexual Offences Act 2003

13.—(1) The Sexual Offences Act 2003(19) is amended as follows.

(2) In section 21 (positions of trust)(20), in subsection (4)(b), before “an independent clinic” insert “in Wales,”.

(3) In section 22 (positions of trust: interpretation)(21)—

(a) in subsection (5)—

(i) for the definition of “hospital” substitute—

““hospital” means—

(a) a hospital as defined by section 275 of the National Health Service Act 2006, or section 206 of the National Health Service (Wales) Act 2006; or

(b) any other establishment—

(i) in England, in which any of the services listed in subsection (6) are provided; and

(ii) in Wales, which is a hospital within the meaning given by section 2(3) of the Care Standards Act 2000;”, and

(ii) in the definition of “independent clinic” omit “in relation to England and Wales;”, and

(b) after subsection (5) add—

“(6) The services referred to in paragraph (b)(i) of the definition of “hospital” are as follows—

(a) medical treatment under anaesthesia or intravenously administered sedation;

(b) dental treatment under general anaesthesia;

(c) obstetric services and, in connection with childbirth, medical services;

(d) termination of pregnancies;

(e) cosmetic surgery, other than—

(i) ear and body piercing;

(ii) tattooing;

(iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or

(iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

(4) In section 42 (care workers: interpretation)(22)—

(a) for subsection (3) substitute—

“(3) This subsection applies if B is a patient for whom services are provided—

(a) by a National Health Service body or an independent medical agency;

(b) in an independent hospital; or

(c) in Wales, in an independent clinic,

(19) 2003 c. 42.

(20) There are amendments to section 21 which are not relevant to this Order.

(21) Relevant amendments to section 22(5) were made by the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 2, Schedule 1, paragraphs 237 and 238 and by S.I. 2008/1779, article 7(e) and (f).

(22) There are amendments to section 42 which are not relevant to this Order.

and A has functions to perform for the body or agency or in the hospital or clinic in the course of employment which have brought A or are likely to bring A into regular face to face contact with B.”; and

- (b) in subsection (5), for the definitions of “independent clinic”, “independent hospital” and “independent medical agency” substitute—

““independent clinic” has the meaning given by section 2 of the Care Standards Act 2000;

“independent hospital”—

- (a) in England, means—

- (i) a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; or
- (ii) any other establishment in which any of the services listed in section 22(6) are provided and which is not a health service hospital as so defined; and

- (b) in Wales, has the meaning given by section 2 of the Care Standards Act 2000; “independent medical agency” means an undertaking (not being an independent hospital, or in Wales an independent clinic) which consists of or includes the provision of services by medical practitioners;”;

- (c) after subsection (5) add—

“(6) In subsection (5), in the definition of “independent medical agency”, “undertaking” includes any business or profession and—

- (a) in relation to a public or local authority, includes the exercise of any functions of that authority; and
- (b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body.”.

Amendments of the Criminal Justice Act 2003

- 14.** In section 207 of the Criminal Justice Act 2003 (mental health treatment requirement)(**23**)—

- (a) in subsection (2)(a)—

- (i) for “an independent hospital or” substitute “a”, and
- (ii) after “Care Standards Act 2000 (c. 14)” insert “, an independent hospital”; and

- (b) after subsection (4) insert—

“(4A) In subsection (2) “independent hospital”—

- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
- (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.”.

Amendment of the Health Protection Agency Act 2004

- 15.** For section 10 of the Health Protection Agency Act 2004 (health care provision: standards)(**24**) substitute—

(23) 2003 c. 44.

(24) 2004 c. 17; section 10 was modified by S.I. 2009/462, article 13.

“10.—(1) Insofar as any health care is provided by or for the Agency in England, the Agency is to be treated for the purposes of Chapters 3, 5 and 6 of Part 1 of the 2008 Act as a Primary Care Trust.

(2) For the purposes of subsection (1), “health care” must be construed in accordance with section 97(1) and (2) of the 2008 Act.

(3) Section 54 of the 2008 Act (studies as to economy, efficiency etc.) does not apply to the Agency.

(4) Insofar as any health care is provided by or for the Agency in Wales, the Agency is to be treated for the purposes of Chapters 2 and 4 of Part 2 of the 2003 Act as a Welsh NHS body.

(5) For the purposes of subsection (4), “health care” must be construed in accordance with section 45 of the 2003 Act.

(6) The references in section 71 of the 2003 Act (reporting to the Secretary of State and regulator) to special measures are, in relation to the Agency, references to anything that may be done by the appropriate authority in pursuance of section 4 above.

(7) This section does not extend to Scotland and Northern Ireland.

(8) In this section—

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003; and

“the 2008 Act” means the Health and Social Care Act 2008.”.

Amendment of the Income Tax (Trading and Other Income) Act 2005

16. In section 726 of the Income Tax (Trading and Other Income) Act 2005 (meaning of “care provider”)(**25**), for subsection (2) substitute—

“(2) A person meets the care registration requirement in relation to care provided in England if the person is registered under Part 2 of the Care Standards Act 2000 or Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the provision of care.

(2A) A person meets the care registration requirement in relation to care provided in Wales if the person is registered under Part 2 of the Care Standards Act 2000 in respect of the provision of care.”.

Amendments of the Mental Capacity Act 2005

17.—(1) The Mental Capacity Act 2005(**26**) is amended as follows.

(2) In section 35 (appointment of independent mental capacity advocates)(**27**), in subsection (6) (b)(iii), after “Care Standards Act 2000 (c. 14)” insert “or Chapter 2 of Part 1 of the Health and Social Care Act 2008”.

(3) In section 38 (provision of accommodation by NHS body)(**28**), for subsection (7) substitute—

“(7) “Hospital” means—

(a) in relation to England, a hospital as defined by section 275 of the National Health Service Act 2006; and

(25) 2005 c. 5.

(26) 2005 c. 9.

(27) There are amendments to section 35 which are not relevant to this Order.

(28) Section 38(7) was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 278.

- (b) in relation to Wales, a health service hospital as defined by section 206 of the National Health Service (Wales) Act 2006 or an independent hospital as defined by section 2 of the Care Standards Act 2000.”.
- (4) In section 49 (power to call for reports), in subsection (7)(c), after “Care Standards Act 2000 (c. 14)” insert “or Chapter 2 of Part 1 of the Health and Social Care Act 2008”.
- (5) In section 58 (functions of the Public Guardian), in subsection (5)(c), after “Care Standards Act 2000 (c. 14)” insert “or Chapter 2 of Part 1 of the Health and Social Care Act 2008”.
- (6) In section 61 (Court of Protection Visitors), in subsection (5)(c), after “Care Standards Act 2000 (c. 14)” insert “or Chapter 2 of Part 1 of the Health and Social Care Act 2008”.
- (7) In Schedule A1 (hospital and care home residents: deprivation of liberty)(29)—
- (a) in Part 9 (assessments under this Schedule), in paragraph 131(c), after “Care Standards Act 2000” insert “or Chapter 2 of Part 1 of the Health and Social Care Act 2008”; and
- (b) in Part 13 (interpretation)—
- (i) for paragraph 175(3) substitute—
- “(3) Independent hospital”—
- (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not an NHS hospital; and
- (b) in relation to Wales, means a hospital as defined by section 2 of the Care Standards Act 2000 that is not an NHS hospital.”.
- (ii) for paragraph 177, substitute—
- “177. “Managing authority”, in relation to an independent hospital, means—
- (a) in relation to England, the person registered, or required to be registered, under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of regulated activities (within the meaning of that Part) carried on in the hospital, and
- (b) in relation to Wales, the person registered, or required to be registered, under Part 2 of the Care Standards Act 2000 in respect of the hospital.”.
- (iii) for paragraph 179, substitute—
- “179. “Managing authority”, in relation to a care home, means—
- (a) in relation to England, the person registered, or required to be registered, under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the provision of residential accommodation, together with nursing or personal care, in the care home, and
- (b) in relation to Wales, the person registered, or required to be registered, under Part 2 of the Care Standards Act 2000 in respect of the care home.”.

Amendment of the Childcare Act 2006

18. In section 18 of the Childcare Act 2006 (meaning of childcare)(30), in subsection (8), in paragraph (b) omit “, “hospital”” and after paragraph (b) insert—

(29) Schedule A1 was inserted by the Mental Health Act 2007 (c. 12), Schedule 7.

(30) 2006 c. 21; section 18(8)(b) was amended by the Children and Young Persons Act 2008 (c. 23), Schedule 1, paragraph 19(3)(b).

“(ba) “hospital” has the meaning given by section 275 of the National Health Service Act 2006.”.

Amendments of the Safeguarding Vulnerable Groups Act 2006

19.—(1) The Safeguarding Vulnerable Groups Act 2006(**31**) is amended as follows.

(2) In section 6 (regulated activity providers)(**32**), in subsection (4)(b), for “arises under section 11 of the Care Standards Act 2000 (c. 14)”, substitute—

“arises—

(i) in relation to England, under section 10 of the Health and Social Care Act 2008, or

(ii) in relation to Wales, under section 11 of the Care Standards Act 2000.”.

(3) In section 16 (exception to requirement to make monitoring check), in subsection (4), after paragraph (e) insert—

“(f) the activity is carried out in connection with an activity in respect of which a requirement to register arises under section 10 of the Health and Social Care Act 2008.”.

(4) In section 21 (controlled activity relating to children)(**33**)—

(a) in subsection (8)—

(i) in paragraph (b), omit the word “or” at the end of the paragraph, and

(ii) after paragraph (c) insert—

“, or

(d) as an activity in respect of which a requirement to register arises under section 10 of the Health and Social Care Act 2008.”; and

(b) in subsection (10), after paragraph (g) insert—

“(h) for, or on behalf of, a person in respect of whom a requirement to register in respect of any activity arises under section 10 of the Health and Social Care Act 2008.”.

(5) In section 22 (controlled activity relating to vulnerable adults)—

(a) in subsection (6)—

(i) in the definition of “adult placement scheme”, in paragraph (b), for “arises under section 11 of the Care Standards Act 2000 (c. 14)” substitute—

“arises—

(i) in relation to England, under section 10 of the Health and Social Care Act 2008, or

(ii) in relation to Wales, under section 11 of the Care Standards Act 2000;”,

(ii) in the definition of “hospital services”—

(aa) in paragraph (e), omit “(within the meaning of section 2 of the Care Standards Act 2000)”,

(bb) for paragraph (f) substitute—

“(f) in Wales, an independent clinic (within the meaning of section 2 of the Care Standards Act 2000);”, and

(cc) in paragraph (g) omit “(within the meaning of that section)”,

(31) 2006 c. 47.

(32) There are amendments to section 6 which are not relevant to this Order.

(33) There are amendments to section 21 which are not relevant to this Order.

(iii) after the definition of “hospital services” insert—

““independent hospital”—

(a) in relation to England, means—

(i) a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, or

(ii) any other establishment in which any of the services listed in subsection (7) are provided and which is not a health service hospital as so defined; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;

“independent medical agency” means an undertaking (not being an independent hospital, or in Wales an independent clinic) which consists of or includes the provision of services by medical practitioners;”, and

(iv) after the definition of “primary care services” insert—

““undertaking” includes any business or profession and—

(a) in relation to a public or local authority, includes the exercise of any functions of that authority; and

(b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body.”; and

(b) after subsection (6) add—

“(7) The services referred to in paragraph (a)(ii) of the definition of “independent hospital” are as follows—

(a) medical treatment under anaesthesia or intravenously administered sedation;

(b) dental treatment under general anaesthesia;

(c) obstetric services and, in connection with childbirth, medical services;

(d) termination of pregnancies;

(e) cosmetic surgery, other than—

(i) ear and body piercing;

(ii) tattooing;

(iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or

(iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.

(6) In Schedule 7 (vetting information), in paragraph 6, in sub-paragraph (b), for “arises under section 11 of the Care Standards Act 2000 (c. 14) substitute—

“arises—

(i) in relation to England, under section 10 of the Health and Social Care Act 2008, or

(ii) in relation to Wales, under section 11 of the Care Standards Act 2000.”.

Amendments of the Criminal Justice and Immigration Act 2008

20. In Schedule 1 to the Criminal Justice and Immigration Act 2008 (further provisions about youth rehabilitation orders)(**34**), in Part 2 (requirements), in paragraph 20 (mental health treatment requirement)—

- (a) in sub-paragraph (2)(a)—
 - (i) for “an independent hospital or” substitute “a”, and
 - (ii) after “Care Standards Act 2000 (c. 14)” insert “, an independent hospital”; and
- (b) after sub-paragraph (4) insert—
 - “(4A) In sub-paragraph (2) “independent hospital”—
 - (a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and
 - (b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.”.

Signed by authority of the Secretary of State for Health

Date

Name
Minister for Health
Department of Health

(34) 2008 c. 4, to which there are amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is to come into force on 1st October 2010, makes amendments to certain primary legislation consequential on the replacement, for England, of the registration of health and social care providers under Part 2 of the Care Standards Act 2000 with the new registration system under Part 1 of the Health and Social Care Act 2008.

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