

**EXPLANATORY MEMORANDUM TO  
THE HEALTH SERVICE COMMISSIONER FOR ENGLAND (SPECIAL HEALTH  
AUTHORITIES) (NO.2) ORDER 2005**

**2005 No. 3428**

**1.** This explanatory memorandum has been prepared by Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 The attached order in council has been prepared to include three newly formed Special Health Authorities in the Health Services Commissioner Act 1993. This will enable the Health Services Ombudsman to examine complaints arising in relation to these bodies

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 This statutory instrument is made under the powers in section 2(5)(b) and (6)(b) of the Health Service Commissioners Act 1993.

4.2 Statutory Instrument 2005/2529 created the NHS Blood and Transplant (England and Wales) as a SHA from 1 October 2005. The National Blood Authority and UK Transplant were dissolved on 1 October 2005 and the merged functions form the basis of the NHS Blood and Transplant Authority. This body serves both England and Wales.

4.3 Statutory Instrument 2005/1446 created the NHS Institute for Innovation and Improvement as a SHA from 1 July 2005. The constituent parts of this SHA were the NHS University, NHS Modernisation Agency and NHS Leadership Centre. This body services England only.

4.4 Statutory Instrument 2005/499 created the Health and Social Care Information Centre from 1 April 2005. The NHS Information Authority and some functions from the Department of Health Statistics Division merged to create this SHA. This body services England only.

4.5 This Order in Council will designate these three new SHAs as coming under the Health Service Commissioner's jurisdiction.

**5. Extent**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

6.1 The instrument is subject to negative resolution procedure, and does not amend primary legislation. No statement is required.

## **7. Policy background**

7.1 The Department of Health's Arms Length Body review has recommended comprehensive reforms to its 'Arms Length Bodies'. This has resulted in the effective merger of some Special Authorities into new SHAs.

7.2 Under the NHS Complaints Regulations, the Health Services Commissioner has the power to investigate complaints not resolved at the local resolution or independent review (Healthcare Commission) stages. NHS bodies falling within her jurisdiction include Special Health Authorities to which section 2 of the Health Services Commissioners Act 1993 applies. This Order in Council updates the list to include the three such new bodies, formed as part of the Department of Health's Arms Length Body review.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is minimal. It simply brings these three new Arms Length Bodies within the remit of the Health Service Commissioner.

## **9. Contact**

**Chris Bostock** at the Department of Health (tel: 01132 546130 or e-mail: [chris.bostock@dh.gsi.gov.uk](mailto:chris.bostock@dh.gsi.gov.uk)) can answer any queries regarding the instrument.