

**EXPLANATORY MEMORANDUM TO
THE PATIENT INFORMATION ADVISORY GROUP (ESTABLISHMENT)
(AMENDMENT) REGULATIONS 2007**

2007 No. 2009

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Statutory Instrument extends the maximum term of office for members of the Patient Information Advisory Group from six to nine years. This will ensure that the expertise developed by some members is retained for longer, while new members are recruited and develop experience. The extended term of membership is within the guidelines set by the Office of the Commission for Public Appointments (OCPA).

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

3.1 None

4. Legislative Background

4.1 The original Establishment Regulations were made under Section 61(1) of the Health and Social Care Act 2001. This was re-enacted under Section 252 of the National Health Service Act 2006.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Patient Information Advisory Group was established to advise the Secretary of State on draft regulations under section 60(1) of the Health and Social Care Act 2001 and where he considered it appropriate, on other matters connected with the processing of patient and other information that is obtained or generated in the course of provision of the health service. In practice, the principal function of the Group has been to advise the Secretary in regard to the mechanism which he has established under section 60 to permit the common law duty of confidentiality to be set aside in certain circumstances.
- 7.2 The arrangements created under Section 60 of the Health and Social Care Act 2001 have provided a more secure basis in law for confidential patient information to be processed without consent, where it is impracticable to obtain consent or use anonymised data, for a range of essential NHS activities such as cancer registration, public health surveillance, clinical audit and research.
- 7.3 Members were appointed initially in December 2001 and some were re-appointed in 2005. Additionally, new members were appointed in 2005. Those members appointed in 2001 are therefore due to complete their maximum term of office in February 2008. By extending to the maximum term of office for members the Advisory Group will be able to carry out its duties more effectively by retaining expertise for a longer period.
- 7.4 As this change to the regulations is modest, there has been no public consultation on this. Interested parties will still have opportunity to apply to become a member of the Advisory Group as new members are also being recruited. There has been no media attention as the appointments recruitment process has not yet started.
- 7.5 This change will ensure the continuity of expertise and experience on the Patient Information Advisory Group, and ensure it continues to operate effectively during a period of transition while the recommendations of the Department of Health's Information Governance Review are implemented. There is no other way of achieving this continuity legally to ensure the Advisory Group can fulfil its statutory duties and operate within its statutory powers.

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.

9. Contact

Sean Kirwan at the Department of Health Tel: 0113 397 4497 or e-mail: sean.kirwan@dh.gsi.gov.uk can answer any queries regarding the instrument.