

## SCHEDULE 1

## Article 2

Provisions of Part 1 of the Health and Social Care Act 2008 coming into force on 1st April 2009

1. Section 1(2).
2. Section 1(3) and Schedule 1 insofar as they are not already in force.
3. Section 2(2)(b) and (c).
4. Section 10 insofar as it is not already in force.
5. Section 16.
6. Section 17(1), (3) and (4).
7. Section 18.
8. Section 19.
9. Section 26(4) and (5)(1).
10. Section 28(4)(c) and (d).
11. Sections 29 to 31.
12. Section 33.
13. Section 34(1) and (5).
14. Section 36.
15. Sections 38 to 40.
16. Section 46 insofar as it is not already in force.
17. Section 48.
18. Section 50.
19. Section 51 except insofar as it relates to a review under section 49.
20. Sections 52 to 59.
21. Section 66 insofar as it relates to the paragraphs of Schedule 4 to the Act listed in paragraph 34.
22. Sections 67 to 71.
23. Section 72 except insofar as it relates to a review under section 49.
24. Section 73.
25. Section 74.
26. Section 75.
27. Section 84.
28. Sections 86 and 87.
29. Section 89.
30. Section 95 insofar as it relates to the paragraphs of Schedule 5 to the Act listed in paragraph 35.

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(1) Section 26(2) has not yet been brought into force because transitional provision is currently made instead by the Health and Social Care Act 2008 (Commencement No. 6, Transitory and Transitional Provisions) Order 2008 (S.I. 2008/3168), article 7.

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**31.** Section 96.

**32.** Section 166 insofar as it relates to the repeals and revocations in Part 1 of Schedule 15 to the Act commenced by paragraph 36.

**33.** Schedule 3.

**34.** In Schedule 4—

- (a) paragraph 2,
- (b) paragraph 4,
- (c) paragraph 6,
- (d) paragraph 9,
- (e) paragraph 10.

**35.** In Schedule 5—

- (a) paragraph 1,
- (b) paragraph 7,
- (c) paragraph 8,
- (d) paragraph 9,
- (e) paragraph 13 except insofar as it relates to notice given under section 20B of the 2000 Act<sup>(2)</sup>,
- (f) paragraph 14(a), (b)(i) and (c),
- (g) paragraph 16(b) and (c),
- (h) paragraph 17,
- (i) sub-paragraphs (5) and (6) of paragraph 20 and sub-paragraph (1) insofar as it relates to those sub-paragraphs,
- (j) paragraphs 22 and 23,
- (k) paragraph 24(b) and (c),
- (l) paragraph 25,
- (m) paragraphs 29 and 30,
- (n) paragraphs 32 to 36,
- (o) paragraph 39,
- (p) paragraph 40 except insofar as it relates to sections 66 to 69A of the 2003 Act,
- (q) paragraph 41 except insofar as it relates to sections 88 to 91 of the 2003 Act,
- (r) paragraphs 42 to 46,
- (s) paragraph 47 except insofar as it relates to sections 136 and 137 of the 2003 Act,
- (t) paragraphs 48 to 53,
- (u) paragraph 54 insofar as it is not already in force,
- (v) paragraph 55,
- (w) paragraphs 56 to 59 insofar as they are not already in force,
- (x) paragraphs 60 to 72,
- (y) paragraph 73 insofar as it is not already in force,
- (z) paragraphs 74 to 79,

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(2) Section 20B is inserted by paragraph 19 of Schedule 5 to the Act which is not yet commenced.

- (aa) paragraph 80 insofar as it is not already in force,
  - (bb) paragraphs 81 to 93.
- 36.** The repeals and revocations in Part 1 of Schedule 15 except for—
- (a) the repeals relating to the following provisions of the 2000 Act—
    - (i) section 11,
    - (ii) section 30A(2)(b),
    - (iii) section 42(5), and
    - (iv) section 113A; and
  - (b) the repeals relating to the following provisions of the 2003 Act—
    - (i) section 46,
    - (ii) sections 66 to 69A, and
    - (iii) sections 88 to 91.

## SCHEDULE 2

Article 8

Transitory provision in relation to functions of the CHAI and the CSCI under the 2000 Act

- 1.** In this Schedule, “the relevant date” means the date for the coming into force of the repeals of the 2000 Act relating to the provisions of that Act listed in paragraph **36(a)** of Schedule 1.
- 2.—(1)** Until the relevant date, the Care Quality Commission shall—
  - (a) have the general duty of encouraging improvement in the quality of registered social care services provided in England; and
  - (b) make information available to the public about registered social care services provided in England.

(2) In this paragraph, “registered social care services” means services provided by a person registered with the Care Quality Commission under the 2000 Act as a care home, domiciliary care agency, nurses agency or adult placement scheme<sup>(3)</sup>.
- 3.** Until the relevant date, the 2000 Act and regulations made under it will have effect subject to the modifications set out in paragraphs **4** to **9**.
- 4.—(1)** The 2000 Act will have effect subject to the modifications set out in sub-paragraphs (2) to (13).
  - (2) In section 5 (registration authorities), in subsection (1)(a)<sup>(4)</sup>—
    - (a) in sub-paragraph (i), for “the CHAI” substitute “the Care Quality Commission”; and
    - (b) in sub-paragraph (ii), for “the CSCI” substitute “the Care Quality Commission”.
  - (3) In section 11 (requirement to register), in subsection (4)<sup>(5)</sup>, for “the CHAI, the CSCI” substitute “the Care Quality Commission”.

<sup>(3)</sup> See [S.I. 2004/1972](#) for the extension of the application of Part 2 of the 2000 Act to adult placement schemes.

<sup>(4)</sup> Subsection (1) was so numbered as a result of the Adoption and Children Act [2002 \(c.38\)](#), Schedule 3, paragraph 105 and amended by the Health and Social Care (Community Health and Standards) Act [2003 \(c.43\)](#) (“the 2003 Act”), Schedule 9, paragraph 17 and the Education and Inspections Act [2006 \(c.40\)](#) (“the 2006 Act”), Schedule 14, paragraph 39.

<sup>(5)</sup> Subsection (4) was amended by the 2003 Act, Schedule 9, paragraph 20 and the 2006 Act, Schedule 14, paragraph 42.

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- (4) In section 12 (applications for registration), in subsection (2)(6)—
- (a) for “the CHAI, the CSCI” substitute “the Care Quality Commission under section 5(1)(a)(i)”; and
  - (b) after “the Assembly” insert “or the Care Quality Commission under section 5(1)(a)(ii)”.
- (5) In section 15 (applications by registered persons), in subsection (3)(7)—
- (a) in paragraph (a), for “the CHAI, the CSCI” substitute “the Care Quality Commission under section 5(1)(a)(i)”; and
  - (b) in paragraph (b), after “the Assembly” insert “or the Care Quality Commission under section 5(1)(a)(ii)”.
- (6) In section 16 (regulations about registration), in subsection (3)(8)—
- (a) in paragraph (a), for “the CHAI, the CSCI” substitute “the Care Quality Commission under section 5(1)(a)(i)”; and
  - (b) in paragraph (b), after “the Assembly” insert “or the Care Quality Commission under section 5(1)(a)(ii)”.
- (7) In section 22 (regulation of establishments and agencies), in subsection (7)(i)(9)—
- (a) in sub-paragraph (i), for “the CHAI, the CSCI” substitute “the Care Quality Commission under section 5(1)(a)(i)”; and
  - (b) in sub-paragraph (ii), after “the Assembly” insert “or the Care Quality Commission under section 5(1)(a)(ii)”.
- (8) In section 29 (proceedings for offences)(10), for subsection (1)(a) substitute—
- “(a) the Care Quality Commission or the CIECSS; or”
- (9) In section 31 (inspections by persons authorised by registration authority)(11), in subsection (7), for “the CHAI, the CSCI” substitute “the Care Quality Commission”.
- (10) In section 42 (power to extend the application of Part 2)(12), in subsection (5), for “the CHAI, the CSCI” substitute “the Care Quality Commission”.
- (11) In section 55 (interpretation), after subsection (3)(ea)(13) insert—
- “(eb) staff of the Care Quality Commission who inspect under Part 2 of the Care Standards Act 2000 premises used for or in connection with a care home, domiciliary care agency, nurses agency or adult placement scheme;”.
- (12) In section 113A (fees payable under Part 2)(14)—
- (a) in subsection (1), for “The CHAI, the CSCI” substitute “The Care Quality Commission, in cases where it is the registration authority under section 5(1)(a)(i)”; and
  - (b) in subsection (3), for “the CHAI, the CSCI” substitute “the Care Quality Commission”;

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(6) Subsection (2) was amended by the 2003 Act, section 105(3) and the 2006 Act, Schedule 14, paragraph 43. The transitional provisions relating to section 12 of the 2000 Act made by article 3 of [S.I. 2005/2925](#) are revoked by article 15 of this Order.

(7) Subsection (3) was amended by the 2003 Act, section 105(4) and the 2006 Act, Schedule 14, paragraph 44. The transitional provisions relating to section 15 of the 2000 Act made by article 3 of [S.I. 2005/2925](#) are revoked by article 15 of this Order.

(8) Subsection (3) was substituted by the 2003 Act, section 105(6) and amended by the 2006 Act, Schedule 14, paragraph 45. The transitional provisions relating to section 16 of the 2000 Act made by article 3 of [S.I. 2005/2925](#) are revoked by article 15 of this Order.

(9) Subsection (7)(i) was amended by the 2003 Act, section 105(7) and the 2006 Act, Schedule 14, paragraph 46. The transitional provisions relating to section 22 of the 2000 Act made by article 3 of [S.I. 2005/2925](#) are revoked by article 15 of this Order.

(10) Section 29(1)(a) was amended by the 2003 Act, Schedule 9, paragraph 22 and by the 2006 Act, Schedule 14, paragraph 47.

(11) Section 31(7) was amended by the 2003 Act, Schedule 9, paragraph 23(b) and by the 2006 Act, Schedule 14, paragraph 48.

(12) Section 42 was amended by the 2003 Act, Schedule 9, paragraph 25 and by the 2006 Act, Schedule 14, paragraph 50.

(13) Subsection (3)(ea) is to be inserted by paragraph 29(3)(b) of Schedule 5 to the Health and Social Care Act 2008.

(14) Section 113A was inserted by the 2003 Act, section 105(2) and amended by the 2006 Act, Schedule 14, paragraph 53. It has been commenced only in relation to a determination by the CHAI – see article 2 of [S.I. 2005/2925](#).

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(c) in subsection (5), for “the CHAI, the CSCI” substitute “the Care Quality Commission, in cases where it is the registration authority under section 5(1)(a)(i)”; and

(d) in subsection (6), for “the CHAI, the CSCI” substitute “the Care Quality Commission”.

(13) In this paragraph references to section 5(1)(a)(i) and (ii) of the 2000 Act are references to those provisions as modified by sub-paragraph (2).

**5.—(1)** The regulations specified in paragraph (2) will have effect as if for the definition of “Commission” there were substituted—

““Commission” means the Care Quality Commission;”.

(2) The regulations referred to in paragraph (1) are—

(a) regulation 2(1) of the Care Homes Regulations 2001(**15**);

(b) regulation 2(1) of the Private and Voluntary Health Care (England) Regulations 2001(**16**);

(c) regulation 2(1) of the Nurses Agencies Regulations 2002(**17**); and

(d) regulation 2(1) of the Domiciliary Care Agencies Regulations 2002(**18**).

**6.** The Care Standards Act 2000 (Extension of the Application of Part 2 to Adult Placement Schemes) (England) Regulations 2004(**19**) will have effect as if, in regulation 2(3), for “the CSCI” there were substituted “the Care Quality Commission”.

**7.—(1)** The Adult Placement Schemes (England) Regulations 2004(**20**) will have effect as if—

(a) in the regulations specified in sub-paragraph (2), for “the CSCI”, in all places where it appears, there were substituted “the Care Quality Commission”; and

(b) in regulations 24 and 24A(**21**), for “the Commission”, in all places where it appears, there were substituted “the Care Quality Commission”.

(2) The regulations referred to in sub-paragraph (1) are regulations 3, 4, 5, 6, 8, 9, 12, 22, 23, 25, 26, 30, 32, 33, 34, 35, 36, 37 and 39.

**8.** The Commission for Social Care Inspection (Fees and Frequency of Inspections) Regulations 2007(**22**) will have effect as if—

(a) in regulation 4(4) (variation fees) for “the CSCI” in both places it appears; and

(b) in regulation 6(1) (frequency of inspections) for “the CSCI”,

there were substituted “the Care Quality Commission”.

**9.—(1)** The requirement in the regulations specified in sub-paragraph (2) as modified by this Schedule to notify the Care Quality Commission of a revision to the service user’s guide shall not apply in the case of a revision made solely for the purpose of substituting the address and telephone number of the Care Quality Commission for those of—

(a) the CHAI, in the case of the Regulations specified in sub-paragraph (2)(a); or

(b) in all other cases, the CSCI.

(2) The regulations referred to in sub-paragraph (1) are—

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(15) S.I. 2001/3965, amended by S.I. 2004/664; there are other amending instruments but none is relevant.

(16) S.I. 2001/3968, amended by S.I. 2004/664; there are other amending instruments but none is relevant.

(17) S.I. 2002/3212, amended by S.I. 2004/664; there are other amending instruments but none is relevant.

(18) S.I. 2002/3214, amended by S.I. 2004/664; there are other amending instruments but none is relevant.

(19) S.I. 2004/1972.

(20) S.I. 2004/2071.

(21) Regulation 24 was substituted and regulation 24A was inserted by S.I. 2006/1493.

(22) S.I.2007/556.

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- (a) regulation 8(b) of the Private and Voluntary Health Care (England) Regulations 2001;
- (b) regulation 6(b) of the Care Homes Regulations 2001;
- (c) regulation 6(b) of the Domiciliary Care Agencies Regulations 2002;
- (d) regulation 6(b) of the Nurses Agencies Regulations 2002; and
- (e) regulation 6(b) of the Adult Placement Schemes (England) Regulations 2004.

### SCHEDULE 3

Article 9

#### Transitory, transitional and saving provisions in relation to functions of the CHAI and the CSCI under the 2003 Act

##### **Interpretation etc.**

1.—(1) In this Schedule “the relevant financial year” means the financial year ending 31st March 2009.

(2) Notwithstanding their repeal, sections 50, 51, 52, 53, 55, 57, 78, 79 and 80 to 82 of the 2003 Act are saved to the extent specified by, and as modified by, this Schedule.

##### **Annual reviews**

2.—(1) Where—

- (a) the CHAI, under section 50 of the 2003 Act (annual reviews); or
- (b) the CSCI, under section 79 of the 2003 Act (annual reviews)<sup>(23)</sup>,

had not, before the appointed day, completed a review for each body specified in those sections in relation to the relevant financial year, the Care Quality Commission shall, in accordance with those sections, complete any such review and award a performance rating to, or, as the case may be, make an assessment of, that body.

(2) Where the CHAI had not, before the appointed day, completed a review of the Health Protection Agency pursuant to section 10 of the Health Protection Agency Act 2004<sup>(24)</sup> (health care provision: standards) in relation to the relevant financial year, the Care Quality Commission shall, in accordance with that section, complete any such review and award a performance rating to that Agency.

(3) For the purposes of sub-paragraph (2), the references to the standards provisions in section 10 of the Health Protection Agency Act 2004 shall be interpreted as a reference to those provisions as saved and modified by this Order in relation to English NHS bodies.

(4) For the purposes of sub-paragraphs (1) and (2)—

- (a) section 50 of the 2003 Act shall be modified as if for “the CHAI” in each place it appears, there were substituted “the Care Quality Commission”; and
- (b) section 79 shall be modified as if—
  - (i) for “the CSCI” in each place it appears there were substituted “the Care Quality Commission”, and
  - (ii) in subsection (2), for the words “award a performance rating to” there were substituted “assess”.

<sup>(23)</sup> Section 79 was amended by the 2006 Act, sections 157, 184 and Schedule 14, paragraphs 82 and 85 and Schedule 18, Part 5.

<sup>(24)</sup> 2004 c.17.

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(5) In completing any review under this paragraph, the Care Quality Commission must take into account any evidence relevant to that review obtained prior to the appointed day by—

- (a) the CHAI in the exercise of its functions under section 50 of the 2003 Act; or
- (b) the CSCI in the exercise of its functions under section 79 of the 2003 Act,

insofar as that information has been made available to the Care Quality Commission.

(6) For the purposes of its duties under this paragraph, the Care Quality Commission may, subject to approval of the Secretary of State, revise criteria published by—

- (a) the CHAI under section 50(3) of the 2003 Act; or
- (b) the CSCI under section 79(4) of the 2003 Act

and if it does so it must publish the revised criteria.

(7) Pursuant to section 50(4)(b) of the 2003 Act, the Care Quality Commission must, when completing a review pursuant to sub-paragraph (1)(a), take into account any Code of Practice published under section 47A of the 2003 Act (code of practice relating to health care associated infections)<sup>(25)</sup> that applied during the relevant financial year, notwithstanding the repeal of section 47A.

### **Other reviews and investigations**

**3.—**(1) This paragraph applies where the CHAI or the CSCI—

- (a) began but did not, before the appointed day, complete a review or investigation under the sections specified in sub-paragraph (3); or
- (b) completed a review or investigation under those sections but did not before the appointed day publish a report in relation to it.

(2) The Care Quality Commission may—

- (a) in a case falling within sub-paragraph (1)(a), complete the review or investigation in accordance with the relevant section (as if references to “the CHAI” or the “CSCI” were to “the Care Quality Commission”) and if it does so shall publish a report in relation to the completed review or investigation; or
- (b) in a case falling within sub-paragraph (1)(b), publish the report.

(3) The sections specified for the purpose of sub-paragraph (1) are sections 51 (reviews: England and Wales)<sup>(26)</sup>, 52 (review and investigations: England)<sup>(27)</sup>, 55 (reviews of data), 78 (review of studies and research) and 80 (other reviews and investigations)<sup>(28)</sup> of the 2003 Act.

(4) Pursuant to section 51(4)(a) and 52(5)(b) of the 2003 Act, the Care Quality Commission must, when completing a review or investigation or publishing a report pursuant to sub-paragraph (1) and those sections, take into account any Code of Practice published under section 47A of the 2003 Act (code of practice relating to health care associated infections) that applied during the relevant financial year, notwithstanding the repeal of section 47A.

### **Failings**

**4.—**(1) Where the Care Quality Commission has completed a review or investigation or published a report on a review or investigation pursuant to paragraph 2 or 3, section 53(4), (5) and (8) and 81(3) to (6) of the 2003 Act (failings) shall apply notwithstanding their repeal as if for “the

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<sup>(25)</sup> Section 47A was inserted by the Health Act 2006, section 14.

<sup>(26)</sup> Section 51 was amended by the Health Act 2006, section 15.

<sup>(27)</sup> Section 52 was amended by the Health Act 2006, section 15.

<sup>(28)</sup> Section 80 was amended by the 2006 Act, sections 157, 184 and Schedules 14, paragraphs 82 and 86 and Schedule 18, part 5.

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CHAI” or “the CSCI” in each place it appears, there were substituted “the Care Quality Commission” and as if the words “(in a case where subsection (2) does not apply)” were omitted from section 81(3).

(2) Sub-paragraph (1) does not apply where the CHAI or the CSCI has already reported to the Secretary of State or the Welsh Ministers (as the case may be) in relation to the matter.

### **Studies**

5.—(1) This paragraph applies where the CHAI or the CSCI—

- (a) began a study under a section specified in paragraph (3) but had not completed it before the appointed day; or
- (b) completed such a study before the appointed day but had not prior to the appointed day published recommendations and the results of the study.

(2) The Care Quality Commission may—

- (a) in a case falling within sub-paragraph (1)(a), complete the study in accordance with the relevant section (as if references to “the CHAI” or “the CSCI” were to “the Care Quality Commission”) and if it does so shall publish recommendations and the results of the study; or
- (b) in a case falling within sub-paragraph (1)(b), publish the recommendations and the result of the study.

(3) The sections specified for the purpose of sub-paragraph (1) are sections 57 (studies as to economy, efficiency etc) and 82 (studies as to economy, efficiency etc) of the 2003 Act.

(4) Section 82(6) shall apply, notwithstanding its repeal, to any material relevant to any study under that section that falls within sub-paragraph (1) as if for “The CSCI” there were substituted “The Care Quality Commission”.

### **Explanations and statements of action**

6.—(1) Notwithstanding their revocation by this Order, the Commission for Social Care Inspection (Explanation and Co-operation) Regulations 2004<sup>(29)</sup> (“the CSCI Explanation Regulations”) and the Commission for Healthcare Audit and Inspection (Explanation, Statements of Action and Co-operation) Regulations 2004<sup>(30)</sup> (“the CHAI Explanation Regulations”) shall be saved to the extent specified by and with the modifications specified in, this paragraph.

(2) The Care Quality Commission, or a person authorised by it, may require any of the persons prescribed in regulation 2(4) of the CSCI Explanation Regulations (power to require an explanation) or regulation 2(4) of the CHAI Explanation Regulations (power to require an explanation) to provide to the Care Quality Commission or the person so authorised (as the case may be) an explanation of—

- (a) any documents, records or items inspected, copied or provided under sections 66 (right of entry) to 68 (power to require documents and information etc) and 88 (right of entry) to 90 (power to require information etc) of the 2003 Act;
- (b) any information provided under those sections; or
- (c) any matters which—
  - (i) were the subject of the exercise of any functions of the CSCI under Chapter 5 of Part 2 of the 2003 Act,
  - (ii) were the subject of the exercise of any functions of the CHAI under Chapter 3 of Part 2 of the 2003 Act, or

<sup>(29)</sup> S.I. 2004/555.

<sup>(30)</sup> S.I. 2004/557.

(iii) are the subject of the exercise of any functions of the Care Quality Commission under paragraphs 2, 3 and 5 of this Schedule,

in circumstances where the Care Quality Commission considers the explanation necessary or expedient for the purposes of its functions under paragraph 2 or 3.

(3) Regulations 2(2) and (3) of the CSCI Explanation Regulations and the CHAI Explanation Regulations shall apply to explanations required by the Care Quality Commission under sub-paragraph (1) as if for “the CHAI” or “the CSCI” in each place they appear there were substituted “the Care Quality Commission”.

(4) Where—

- (a) the Care Quality Commission publishes a report under paragraph 3 in respect of a review or investigation commenced under section 52(2)(c) or (3) of the 2003 Act; or
- (b) a statement of action fell to be published before the appointed day under regulation 3 of the CHAI Explanation Regulations but was not so published,

the English NHS body or cross-border SHA in question shall, in accordance with the following paragraphs, publish a statement as to the action it proposes to take as a result of the review or investigation (“the statement”).

(5) In sub-paragraph (4), “English NHS body” and “cross-border SHA” have the same meaning as in section 148 of the 2003 Act.

(6) Regulation 3(2) to (7) of the CHAI Explanation Regulations shall apply to statements published pursuant to sub-paragraph (4) as if—

- (a) in paragraphs (3) and (6), after “CHAI’s” there were inserted “or, as the case may be, the Care Quality Commission’s,”; and
- (b) in paragraph (7)(a), for “the CHAI” there were substituted “the Care Quality Commission”.

#### **Provision of advice to the Secretary of State and Welsh Ministers**

7. The Care Quality Commission must provide advice pursuant to a request made under section 54(3) (providing advice or information to the Secretary of State and Welsh Ministers) or 77(4) (providing advice or information to the Secretary of State) of the 2003 Act in any case where the request was made to the CHAI before the appointed day but the CHAI had not provided advice in response to that request.

#### **Provision of information to the Comptroller and Auditor General, the Independent Regulator of NHS Foundation Trusts and the Auditor General for Wales**

8.—(1) The Care Quality Commission must, on request, provide—

- (a) the Comptroller and Auditor General with any material relevant to a review or investigation under paragraphs 2 or 3 or a study under paragraph 5 insofar as related to the exercise of a function under section 50, 51, 52, 55 or 57 of the 2003 Act;
- (b) the Independent Regulator of NHS Foundation Trusts with—
  - (i) any material which is relevant to a review or investigation under paragraphs 2 or 3 and relates to the provision of health care by or for an NHS foundation trust;
  - (ii) any material which is relevant to a study under paragraph 5 and relates to an NHS foundation trust.
- (c) the Auditor General for Wales with all material which is relevant to a review under paragraph 3 and to one or more Welsh NHS bodies.

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### **Arrangements with the Secretary of State for Defence**

**9.**—(1) Sub-paragraphs (2) and (3) apply to arrangements made between the CHAI and the Secretary of State for Defence under section 124(31) of the 2003 Act (arrangements with Ministers etc.: CHAI).

(2) The Care Quality Commission may perform functions or provide facilities or services in accordance with those arrangements as though that section were not repealed and the Commission for Healthcare Audit and Inspection (Defence Medical Services) Regulations 2008(32) were not revoked.

(3) If the Care Quality Commission complies with those arrangements, the terms and conditions agreed between the CHAI and the Secretary of State for Defence shall apply as if those arrangements were made by the Care Quality Commission instead of the CHAI.

### **Annual accounts**

**10.**—(1) The Care Quality Commission must prepare the annual accounts of the CHAI and the CSCI in respect of the relevant financial year in such form as it considers appropriate.

(2) The Care Quality Commission must send copies of those annual accounts to the Comptroller and Auditor General.

(3) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts and of his report before Parliament.

### **Reports relating to the exercise of functions during the relevant financial year**

**11.**—(1) As soon as possible after the appointed day the Care Quality Commission must make a report based on information available to it on each of the following—

- (a) the way in which the CHAI exercised its functions during the relevant financial year;
- (b) the way in which the CSCI exercised its functions during the relevant financial year;
- (c) the provision of health care by and for NHS bodies;
- (d) what the CHAI found in the course of exercising its functions during the relevant financial year in relation to the persons for whom it was the registration authority under the 2000 Act;
- (e) what the CSCI found in the course of exercising its functions during the relevant financial year.

(2) The Care Quality Commission must lay before Parliament a copy of each report made under this paragraph.

(3) The Care Quality Commission must send a copy of each report made under this paragraph to the Secretary of State.

(4) The Care Quality Commission must send a copy of each report made under sub-paragraph (1) (a), (c) and (d) to Welsh Ministers.

### **Co-operation with the Auditor General for Wales**

**12.** The Care Quality Commission must co-operate with the Auditor General for Wales where it seems to it appropriate to do so for the efficient and effective discharge of its functions under this Order.

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(31) See [S.I.2008/1181](#) which prescribes Defence Medical Services as a health scheme for the purposes of section 124.

(32) [S.I. 2008/1181](#) which is revoked by article 15 of, and Schedule 6 to, this Order.

### Availability of reports

**13.**—(1) The Care Quality Commission must make copies of any report published by it under this Schedule available for inspection at its offices by any person at any reasonable time.

(2) Any person who requests a copy of such a report is entitled to have one on payment of such reasonable fee (if any) as the Care Quality Commission considers appropriate.

(3) The Care Quality Commission may charge a person such reasonable fee as it considers appropriate where it provides him, at his request, with any other information relevant to the discharge of the Care Quality Commission’s functions under this Order.

### Modification of provisions of the 2003 Act

**14.** Pending the coming into force of their repeal by Part 1 of Schedule 15 to the Act, sections 66 to 69A and 88 to 91 of the 2003 Act shall have effect subject to the modifications set out in paragraphs 15 to 23.

**15.** Section 66(1) of the 2003 Act (right of entry) is modified as follows—

- (a) for “the CHAI” in each place in which they occur, substitute “the Care Quality Commission”; and
- (b) for “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**16.** Section 67(1) of the 2003 Act (right of entry: supplementary) is modified such that, for “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**17.** Section 68(1) of the 2003 Act (power to require documents and information etc.) is modified as follows—

- (a) for “the CHAI” in each place in which they occur, substitute “the Care Quality Commission”; and
- (b) for “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**18.** Section 69(3) of the 2003 Act (failure to comply with requirements under section 69) shall apply in relation to failures to comply with requirements imposed by virtue of paragraph 6 as it applies in relation to requirements imposed by virtue of section 69.

**19.** Section 69A(33) of the 2003 Act (provision of information by Auditor General for Wales) is modified as follows—

- (a) for “the CHAI” substitute “the Care Quality Commission”; and
- (b) for “under sections 51, 52 and 57” substitute “in a case to which paragraph 3 or 5 of Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 applies”.

**20.** Section 88 of the 2003 Act (right of entry) is modified as follows—

- (a) for “the CSCI” in each place in which those words occur, substitute “the Care Quality Commission”; and

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(33) Section 69A was inserted by the Public Audit (Wales) Act 2004 (c.23), section 66.

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- (b) for “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**21.** Section 89 of the 2003 Act (right of entry: supplementary) is modified such that, for the words “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**22.** Section 90 of the 2003 Act (power to require information, etc.) is modified as follows—

- (a) for “the CSCI” in each place in which those words occur, substitute “the Care Quality Commission”; and
- (b) for “this Chapter” substitute “Schedule 3 to the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009”.

**23.** Section 91(3) of the 2003 Act (failure to comply with requirements under section 91) shall apply in relation to failures to comply with requirements imposed by virtue of paragraph 6 as it applies in relation to requirements imposed by virtue of section 91.

#### SCHEDULE 4

Article 10

##### Transitional provision in relation to functions under the 1983 Act

**1.** In this Schedule, “regulatory authority” means—

- (a) in relation to England, the Care Quality Commission;
- (b) in relation to Wales, the Welsh Ministers.

**2.—(1)** The appointment by the MHAC(**34**) of—

- (a) a registered medical practitioner for the purposes of—
- (i) Part 4 of the 1983 Act (consent to treatment)(**35**); or
- (ii) section 118 (practitioners required to certify consent and to give second opinion) of that Act; or
- (b) another person for the purposes of subsection (2)(a) of section 57 of the 1983 Act (persons required to certify consent),

shall be treated on and after the appointed day as an appointment by the regulatory authority.

**(2)** Anything done for the purposes of—

- (a) Part 4 (consent to treatment) or 4A(**36**) (treatment of community patients not recalled to hospital) of the 1983 Act by a registered medical practitioner appointed for the purposes of Part 4 of that Act by the MHAC; or

**(34)** Under article 3 of [S.I. 1983/892](#), the MHAC carried out on behalf of the Secretary of State his function of appointing medical practitioners for the purposes of Part 4 and section 118 of the Act and other persons for the purposes of section 57(2)(a) of that Act. It also carried out his functions under sections 61 and 120(1) and (4) of the 1983 Act and the function of giving notice disapplying a Part 4A certificate under section 64H(5) of that Act. In relation to Wales, those functions of the Secretary of State were transferred to the National Assembly for Wales by the [National Assembly for Wales \(Transfer of Functions\) Order 1999 \(1999/672\)](#), article 2, Schedule 1; see the entry in Schedule 1 to that Order for the 1983 Act. Those functions were subsequently transferred to Welsh Ministers by virtue of paragraph 30(1) of Schedule 11 to the [Government of Wales Act 2006 \(c.32\)](#). The effect of such transfers being that the functions of Welsh Ministers under the sections of the 1983 Act referred to above are carried out on their behalf by the Mental Health Act Commission.

**(35)** See sections 57(2)(a), 58(3)(a) and 64C(4)(a) of the 1983 Act. Section 57(2)(a) was amended by the [Mental Health Act 2007 \(c.12\)](#) (“the 2007 Act”), section 12(2)(a). Section 58(3)(a) was amended by the 2007 Act, section 12(3)(a)(i).

**(36)** Part 4A was inserted by the 2007 Act, section 35(1).

(b) subsection (2)(a) of section 57 of the 1983 Act (treatment requiring consent and a second opinion) by another person appointed by the MHAC, shall be treated on and after the appointed day as done by a registered medical practitioner or, as the case may be, another person appointed by the regulatory authority for the purposes of Part 4 of that Act.

**3.—(1)** Where a report required to be given to the Secretary of State before the appointed day under subsection (1) of section 61(**37**) of the 1983 Act (review of treatment), had not been so given, that report shall be given to the regulatory authority.

(2) A notice given by the MHAC under subsection (3) of section 61(**38**) of the 1983 Act shall be treated on and after the appointed day as a notice given by the regulatory authority.

**4.—(1)** Where a report required to be given to the Secretary of State before the appointed day under subsection (4) of section 64H(**39**) of the 1983 Act (certificates: supplementary provisions) had not been so given, that report shall be given to the Care Quality Commission.

(2) Notice given by the MHAC under subsection (5) of section 64H of the 1983 Act shall be treated on and after the appointed day as notice given by the regulatory authority.

**5.** Provision made before the appointed day by the Secretary of State under subsection (1) of section 119 of the 1983 Act (practitioners approved for Part 4 and section 118 of the 1983 Act) with the approval of the Treasury shall, on and after the appointed day, be treated as provision made by the Care Quality Commission with the approval of the Treasury (**40**).

**6.** A review commenced by the MHAC under subsection (1) of section 120(**41**) of the 1983 Act (general protection of detained patients) but not completed before the appointed day shall be treated on and after the appointed day as if it were commenced by the regulatory authority under subsection (1) of section 120 of the 1983 Act (as substituted by paragraph 8 of Schedule 3 to the Act).

**7.** Where an arrangement has been made by the MHAC before the appointed day for an authorised person to visit and interview a patient under subsection (1)(a) of section 120 of the 1983 Act but the steps pursuant to that arrangement have not been completed before the appointed day that arrangement shall, on and after the appointed day, be treated as though it were made by the regulatory authority under subsection (3) of section 120 of the 1983 Act (as substituted by paragraph 8 of Schedule 3 to the Act).

**8.** Where an arrangement was made by the MHAC before the appointed day for an authorised person to investigate any complaint under subsection (1)(b) of section 120 of the 1983 Act but the steps pursuant to that arrangement have not been completed before the appointed day that arrangement shall, on and after the appointed day, be treated as though it were made by the regulatory authority under subsection (4) of section 120 of the 1983 Act (as substituted by paragraph 8 of Schedule 3 to the Act).

**9.** A requirement to produce any records under subsection (4)(b) of section 120 of the 1983 Act(**42**) made before the appointed day by a person authorised by the MHAC for the purposes of

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(37) Subsection (1) was amended by the Mental Health (Patients in the Community) Act 1995 (c.52), section 2(5) and by the 2007 Act, sections 12(4)(a), 28(5)(a) and 34(3).

(38) See subsection (3A) of section 61 of the 1983 Act, as inserted by the 2007 Act section 12(4)(d) for the person to whom such notice is to be given.

(39) Section 64H was inserted into the 1983 Act by the 2007 Act, section 35(1). No transitional provision is required in relation to Wales because reports in respect of Wales are required to be given to Welsh Ministers both before and after the appointed day.

(40) No transitional provision is required in relation to Wales because the functions under section 119(1) were exercisable by Welsh Ministers both before and after the appointed day.

(41) Subsection (1) was amended by the Care Standards Act 2000 (c.14), Schedule 4, paragraph 9(2) and by the 2007 Act, Schedule 3, paragraph 26(2).

(42) Subsection (4) was amended by the Care Standards Act 2000, Schedule 4, paragraph 9(2) and by the 2007 Act, section 14(3) (a) and Schedule 3, paragraph 26(3).

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that provision and which requirement was not complied with by that day shall be treated, on and after the appointed day, as a requirement made by a person authorised by the regulatory authority under subsection (7)(c) of section 120 of the 1983 Act (as substituted by paragraph 8 of Schedule 3 to the Act).

**10.**—(1) Provision made before the appointed day under subsection (6) of section 120 of the 1983 Act with the approval of the Treasury shall, on and after the appointed day, be treated as provision made by the regulatory authority under subsection (8) of section 120 (as substituted by paragraph 8 of Schedule 3 to the Act).

(2) Provision made before the appointed day under subsection (6) of section 120 of the 1983 Act by Welsh Ministers shall, on and after the appointed day, be treated as provision made by the Welsh Ministers under subsection (8) of section 120 (as substituted by paragraph 8 of Schedule 3 to the Act).

(3) Sub-paragraph (2) does not apply in relation to pensions<sup>(43)</sup>.

**11.** Where, immediately before the appointed day, a decision fell to be reviewed under subsection (7) of section 121 of the 1983 Act —

- (a) the application made under that subsection shall be treated as made under subsection (2) of section 134A of the 1983 Act (as inserted by paragraph 12 of Schedule 3 to the Act); and
- (b) the review shall be undertaken or, as the case may be, completed by the regulatory authority under section 134A of the 1983 Act.

**12.** On and after the appointed day, a direction made before that day under subsection (8) of section 121 of the 1983 Act shall be treated as a direction made under subsection (3) of section 134A of the 1983 Act.

**13.**—(1) A report under subsection (10) of section 121 of the 1983 Act on the activities of the MHAC in respect of the period between 1st September 2007 and 31st March 2009, shall be published as soon as possible after the appointed day by the Care Quality Commission.

(2) The Care Quality Commission shall send a copy of the report referred to in sub-paragraph (1) to the Secretary of State and the Welsh Ministers.

(3) The Secretary of State shall lay a copy of that report before each House of Parliament.

(4) The Welsh Ministers shall lay a copy of that report before the National Assembly for Wales.

**14.** Section 134A of the 1983 Act<sup>(44)</sup> shall apply in respect of a notice under section 134(6) of that Act given before the appointed day as it does in the case of such a notice given after the appointed day except where an identical application for a review of the decision recorded in that notice has been made before the appointed day under section 121(7) of the 1983 Act.

**15.** Any direction given by the MHAC before the appointed day under paragraph (3) of regulation 30 of the Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008<sup>(45)</sup> shall on and after the appointed day be treated as if given by the Care Quality Commission.

**16.** It shall be the duty of the Care Quality Commission to take such action as may be necessary for the winding up of the affairs of the MHAC including the preparation of the outstanding accounts of the MHAC and the performance of all statutory duties relating to those accounts.

**17.**—(1) In this paragraph—

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(43) Under Schedule 1 to [S.I. 1999/672](#) provision by Welsh Ministers under section 120(6) of the 1983 Act in relation to pensions required the approval of the Treasury and therefore falls within sub-paragraph (1).

(44) Section 134A as inserted into the 1983 Act by paragraph 12 of Schedule 3 to the Act.

(45) [S.I.2008/1184](#).

“the 1993 Act” means the Health Service Commissioners Act 1993<sup>(46)</sup>;

“the Commissioner” means the Health Service Commissioner for England.

(2) Notwithstanding the repeal by this Order of the Health Service Commissioner for England (Mental Health Act Commission) Order 1983<sup>(47)</sup>, the Commissioner may, on or after 1st April 2009—

- (a) continue any investigation commenced before that date pursuant to a complaint made in relation to the MHAC under section 3(1) of the 1993 Act<sup>(48)</sup>; or
- (b) consider and, where appropriate, investigate in accordance with the 1993 Act, any complaint made in relation to the MHAC under section 3(1) of that Act on or after 1st April 2009.

(3) Where an investigation is continued or commenced under paragraph (2), the Commissioner shall—

- (a) where appropriate, afford—
  - (i) the Care Quality Commission, where the complaint is in relation to England; or
  - (ii) the Welsh Ministers, where the complaint is in relation to Wales,an opportunity to comment on any allegations contained in the complaint; and
- (b) send a report of the results of the investigation to—
  - (i) the Care Quality Commission, where the complaint is in relation to England; or
  - (ii) the Welsh Ministers, where the complaint is in relation to Wales.

## SCHEDULE 5

Article 12

### Minor and Consequential Amendments

#### **The Merchant Shipping (Maintenance of Seamen’s Dependants) Regulations 1972**

1. In the Merchant Shipping (Maintenance of Seamen’s Dependants) Regulations 1972<sup>(49)</sup>, in regulation 4(b) (expenses in respect of which a retention notice may be served), omit “under Part III of the National Assistance Act 1948 or”.

#### **The National Assistance (Assessment of Resources) Regulations 1992**

2. In Schedule 4 to the National Assistance (Assessment of Resources) Regulations 1992<sup>(50)</sup> (capital to be disregarded), in paragraph 2(2)—

- (a) after “60 or over” in the second place where it appears insert “or”; and
- (b) omit from “is incapacitated” to the end.

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<sup>(46)</sup> 1993 c.46.

<sup>(47)</sup> S.I. 1983/1114.

<sup>(48)</sup> Section 3(1) has been amended by the Public Services Ombudsman (Wales) Act 2005, section 39(1) and Schedule 6, paragraphs 27 and 35.

<sup>(49)</sup> S.I. 1972/1635, to which there are amendments not relevant to this Order.

<sup>(50)</sup> S.I. 1992/2977; relevant amending instrument is S.I. 1993/964.

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### **The Health Authorities (Membership and Procedure) Regulations 1996**

3. In Schedule 2 to the Health Authorities (Membership and Procedure) Regulations 1996(51) (special health authorities of which the chairman and members are not disqualified under regulation 10(1)(g)) omit “Mental Health Act Commission”.

### **The National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996**

4. In the National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996(52), in regulation 5 (arrangements by Health Authorities and Special Health Authorities for exercise of functions) omit paragraph (6).

### **The Public Interest Disclosure (Prescribed Persons) Order 1999**

5. In the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 1999(53) omit the entry for the “Commission for Healthcare Audit and Inspection” and for the entry for the Commission for Social Care Inspection” substitute—

- (a) in the first column of the table (persons and descriptions of people)—  
“Care Quality Commission.”; and
- (b) in the second column of the table (descriptions of matters)—  
“Matters relating to—
  - (a) the registration and provision of a regulated activity as defined in section 8 of the Health and Social Care Act 2008 and the carrying out of any reviews and investigations under Part 1 of that Act; or
  - (b) any activities not covered by (a) in relation to which the Care Quality Commission exercises its functions.”.

### **The Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999**

6. In Schedule 1 to the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999(54) (employment to which this order applies: employers immediately before the relevant event), in Section 10 (miscellaneous bodies) omit paragraphs 17B and 17C.

### **The Ionising Radiation (Medical Exposure) Regulations 2000**

7. In the Ionising Radiation (Medical Exposure) Regulations 2000(55), in regulation 2 (interpretation), in paragraph (1), in the definition of “appropriate authority” for “Commission for Healthcare, Audit and Inspection established under section 41 of the Health and Social Care (Community Health and Standards) Act 2003” substitute “Care Quality Commission established under section 1 of the Health and Social Care Act 2008”.

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(51) [S.I. 1996/707](#), to which there are amendments not relevant to this Order.

(52) [S.I. 1996/708](#); relevant amending instrument is [S.I. 2006/635](#).

(53) [S.I. 1999/1549](#); relevant amending instrument is [S.I. 2005/2464](#).

(54) [S.I. 1999/2277](#); relevant amending instrument is [S.I. 2004/664](#).

(55) [S.I. 2000/1059](#); relevant amending instrument is [S.I. 2006/2523](#).

### **The Welsh Language Schemes (Public Bodies) Order 2001**

8. In the Schedule to the Welsh Language Schemes (Public Bodies) Order 2001(56) (English name) omit “Commission for Healthcare Audit and Inspection”.

### **The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002**

9. In the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002(57), in regulation 10 (arrangements by Primary Care Trusts for exercise of functions) omit paragraph (3).

### **The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003**

10. In the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2003(58), in Part 1 (prescriptions for public authorities in Part 1 of Schedule 1 to the 2000 Act that are relevant public authorities for the purposes of sections 28 and 29 of the 2000 Act), in the last row of the table—

- (a) in column 1 (relevant public authorities in Part 1 of Schedule 1 to the 2000 Act) for “Commission for Healthcare Audit and Inspection” substitute “Care Quality Commission”;
- (b) in column 2 (prescribed offices etc) for “Operations in a region” substitute “Investigation and Enforcement”;
- (c) in column 3 (urgent cases) for “Area” substitute “Specialist and Statutory Inspection”.

### **The National Health Service (General Medical Services Contracts) (Wales) Regulations 2004**

11. In Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(59) (other contractual terms)—

- (a) in Part 5 (records, information, notifications and rights of entry), for paragraph 89 and the heading preceding it substitute—

#### **“Entry and inspection by the Welsh Ministers**

- 89. The contractor shall allow persons authorised by the Welsh Ministers to exercise their functions in accordance with sections 72 and 73 of the Health and Social Care (Community Health and Standards) Act 2003 (rights of entry).”; and
- (b) in Part 6 (complaints), in paragraph 95 (co-operation with investigations) omit subparagraph (1)(a)(ii).

### **The Race Relations Act 1976 (Statutory Duties) Order 2004**

12. In its application to the Care Quality Commission, the Race Relations Act 1976 (Statutory Duties) Order 2004(60) shall have effect as if for “31st May 2005” (in each place it occurs in articles 2 and 3 and Schedule 1) there was substituted “1st October 2009”.

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(56) [S.I. 2001/2550](#); relevant amending instrument is [S.I. 2004/664](#).

(57) [S.I. 2002/2375](#); relevant amending instrument is [S.I. 2006/635](#).

(58) [S.I. 2003/3171](#); relevant amending instrument is [S.I. 2006/1874](#).

(59) [S.I. 2004/478](#); relevant amending instrument is [S.I. 2006/358](#).

(60) [S.I. 2004/3125](#).

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13. In Schedule 1 to that Order (bodies and other persons required to publish race equality schemes by 31st May 2005) omit “The Commission for Social Care Inspection” and for “Commission for Healthcare Audit and Inspection” substitute “Care Quality Commission”.

#### **The Health and Social Care Information Centre Regulations 2005**

14. In regulation 1 of the Health and Social Care Information Centre Regulations 2005<sup>(61)</sup> (citation, commencement, application and interpretation), in paragraph (3), in the definition of “health service body”—

- (a) omit paragraphs (d) and (e);
- (b) at the end of paragraph (l) omit “and”; and
- (c) after paragraph (m) add—
  - “and
  - (n) the Care Quality Commission;”.

#### **The Children Act 2004 (Joint Area Reviews) Regulations 2005**

15. In the Schedule to the Children Act 2004 (Joint Area Reviews) Regulations 2005<sup>(62)</sup> (provisions for the purposes of reviews)—

- (a) in paragraph 1—
  - (i) omit the entry for “the 2003 Act” and for “the CSCI”, and
  - (ii) after the entry for “the 2006 Act” insert—
    - ““the 2008 Act” means the Health and Social Care Act 2008;”; and
- (b) for paragraph 7 and the heading preceding it substitute—

##### **“Care Quality Commission**

7.—(1) This paragraph applies where the Care Quality Commission conducts a review of children’s services in so far as those services relate to the provision of health care within the meaning in section 9(2) of the 2008 Act.

(2) A review of children’s services referred to in sub-paragraph (1) may include an inspection of those services and sections 62 and 63 of the 2008 Act (entry and inspection) apply to such an inspection as they apply for the purposes of an inspection under Chapter 6 of Part 1 of the 2008 Act.”.

#### **The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005**

16. In Schedule 1 to the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005<sup>(63)</sup>, in Part 1 omit the entries for “The Commission for Healthcare Audit and Inspection” and “The Commission for Social Care Inspection” and after “The British Waterways Board” insert—

“The Care Quality Commission”.

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<sup>(61)</sup> S.I. 2005/500, to which there are amendments not relevant to this Order.

<sup>(62)</sup> S.I. 2005/1973; relevant amending instrument is S.I. 2007/603.

<sup>(63)</sup> S.I. 2005/2966; relevant amending instrument is S.I. 2008/641.

### **The National Health Service (General Dental Services Contracts) Regulations 2005**

17. In Schedule 3 to the National Health Service (General Dental Services Contracts) Regulations 2005(64) (other contractual terms), in Part 5 (records, information, notifications and rights of entry) —

- (a) in paragraph 44 (entry and inspection by the Primary Care Trust), in sub-paragraph (3) (a) for “Commission for Healthcare Audit and Inspection” substitute “Care Quality Commission”; and
- (b) for paragraph 46 and the heading preceding it substitute —

#### **“Entry and inspection by the Care Quality Commission**

46. Subject to paragraph 44(3), the contractor shall allow persons authorised by the Care Quality Commission to enter and inspect premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry)(65).”.

### **The National Health Service (Personal Dental Services Agreements) Regulations 2005**

18. In Schedule 3 to the National Health Service (Personal Dental Services Agreements) Regulations 2005(66) (other contractual terms), in Part 5 (records, information, notifications and rights of entry)—

- (a) in paragraph 44 (entry and inspection by the relevant body), in sub-paragraph (3) (a), for “Commission for Healthcare Audit and Inspection” substitute “Care Quality Commission”; and
- (b) for paragraph 46 and the heading preceding it substitute —

#### **“Entry and inspection by the Care Quality Commission**

46. Subject to paragraph 44(3), the contractor shall allow persons authorised by the Care Quality Commission to enter and inspect premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry)(67).”.

### **The National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006**

19. In Schedule 3 to the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(68) (other contractual terms)—

- (a) in Part 5 (records, information, notifications and rights of entry)—
  - (i) in paragraph 44 (entry and inspection by the relevant body), in sub-paragraph (3)(a) omit “, the Commission for Healthcare Audit and Inspection”, and
  - (ii) for paragraph 46 and the heading preceding it substitute—

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(64) [S.I. 2005/3361](#); relevant amending instrument is [S.I. 2008/528](#).

(65) Section 66 of the Health and Social Care (Community Health and Standards) Act 2003 is amended by paragraph 15 of Schedule 3 to this Order.

(66) [S.I. 2005/3373](#); relevant amending instrument is [S.I. 2008/528](#).

(67) Section 66 of the Health and Social Care (Community Health and Standards) Act 2003 is amended by paragraph 15 of Schedule 3 to this Order.

(68) [S.I. 2006/489](#), to which there are amendments not relevant to this Order.

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#### **“Entry and inspection by the Welsh Ministers**

**46.** Subject to paragraph 44(3), the contractor will allow persons authorised by the Welsh Ministers to enter and inspect premises in accordance with section 72 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry).”; and

- (b) in Part 6 (complaints), in paragraph 51 (co-operation with investigations) omit subparagraph (1)(a)(ii).

#### **The National Health Service (General Dental Services Contracts) (Wales) Regulations 2006**

**20.** In Schedule 3 to the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(**69**) (other contractual terms)—

- (a) in Part 5 (records, information, notifications and rights of entry)—
  - (i) in paragraph 44 (entry and inspection by the Local Health Board), in subparagraph (3)(a) for “Commission for Healthcare Audit and Inspection or the Assembly (as the case may be)” substitute “Welsh Ministers”, and
  - (ii) for paragraph 46 and the heading preceding it substitute—

#### **“Entry and inspection by the Welsh Ministers**

**46.** Subject to paragraph 44(3), the contractor will allow persons authorised by the Welsh Ministers to enter and inspect premises in accordance with section 72 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry).”; and

- (b) in Part 6 (complaints), in paragraph 51 (co-operation with investigations) omit subparagraph (1)(a)(ii).

#### **The Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006**

**21.** In its application to the Care Quality Commission, article 2(1) of the Sex Discrimination Act 1975 (Public Authorities) (Statutory Duties) Order 2006(**70**) shall have effect as if for “30th April 2007” there was substituted “1st October 2009”.

**22.** In the Schedule to that Order omit “The Commission for Healthcare Audit and Inspection” and “The Commission for Social Care Inspection” and after “The British Waterways Board” insert—  
“The Care Quality Commission”.

#### **The Controlled Drugs (Supervision of Management and Use) Regulations 2006**

**23.** The Controlled Drugs (Supervision of Management and Use) Regulations 2006(**71**) are amended as follows—

- (a) in regulation 2 (interpretation), in paragraph (1) omit the entry for “Healthcare Commission” and for the entry for “Commission for Social Care Inspection” substitute—  
““Care Quality Commission” means the Care Quality Commission established under section 1 of the Health and Social Care Act 2008;”;
- (b) in regulation 4 (appointment of accountable officers and national lists)—

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(69) [S.I. 2006/490](#), to which there are amendments not relevant to this Order.

(70) [S.I. 2006/2930](#); relevant amending instrument is [S.I. 2008/2250](#).

(71) [S.I. 2006/3148](#), to which there is an amendment not relevant to this Order.

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- (i) in paragraph (2) for “Head of Operations of the Healthcare Commission” substitute “Director of Operations of the Care Quality Commission”, and
- (ii) in paragraph (3) for “Healthcare Commission” substitute “Care Quality Commission”;
- (c) in regulation 12 (powers to require self-declarations and self-assessments, as part of accountable officers’ monitoring and auditing arrangements or otherwise) omit paragraph (2) and for paragraph (3) substitute—  
“The Care Quality Commission may request an appropriate periodic declaration and an appropriate self-assessment from any registered person that provides health care or from a registered provider that carries on an English care home.”;
- (d) in regulation 16 (accountable officers to assess and investigate concerns), in paragraph (3) (b), for “Healthcare Commission” substitute “Care Quality Commission” and omit sub-paragraph (d);
- (e) in regulation 18 (accountable officers to establish arrangements for sharing information), in paragraph (3), in sub-paragraph (a)(v), for “Healthcare Commission,” substitute “Care Quality Commission, and” and omit sub-paragraph (a)(vi);
- (f) in regulation 19 (accountable officers to carry out periodic inspections), in paragraph (1), in sub-paragraph (b)(i), for “Healthcare Commission,” substitute “Care Quality Commission, or” and omit sub-paragraph (b)(ii);
- (g) in regulation 21 (inspections of private dwellings not requiring the presence of a constable), in paragraph (a) for “Commission for Social Care Inspection” substitute “Care Quality Commission”; and
- (h) in regulation 22 (responsible bodies for the purposes of this Part), in paragraph (1) for sub-paragraph (g) substitute “the Care Quality Commission” and omit sub-paragraph (h).

#### **The National Assembly for Wales (Disqualification) Order 2006**

**24.** In the Schedule to the National Assembly for Wales (Disqualification) Order 2006<sup>(72)</sup> (offices disqualifying holders from membership of the National Assembly), in Part 1 (bodies of which all members are disqualified), omit “Commission for Healthcare Audit and Inspection;”.

#### **The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008**

**25.** The Mental Health (Hospital, Guardianship and Treatment) (England) Regulations 2008<sup>(73)</sup> are amended as follows—

- (a) in regulation 2(1) (interpretation), in the definition of “the Commission” for “Mental Health Act Commission referred to in section 121” substitute “Care Quality Commission” ; and
- (b) in regulation 30(1) (review of decisions to withhold postal packets), for “section 121(7) (review of any decision to withhold a postal packet, or anything contained in it, under section 134)” substitute “section 134A(1) (review of decisions to withhold correspondence)”.

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<sup>(72)</sup> S.I. 2006/3335, to which there are amendments not relevant to this Order.

<sup>(73)</sup> S.I. 2008/1184, to which there are amendments not relevant to this Order.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE 6

Article 15

## Revocations

<i>(1)</i>	<i>(2)</i>	<i>(3)</i>
<i>Instrument revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Health Service Commissioner for England (Mental Health Act Commission) Order 1983	<a href="#">S.I. 1983/1114</a>	The whole Order
The Commission for Social Care Inspection (Membership) Regulations 2003	<a href="#">S.I. 2003/3190</a>	The whole Regulations
The Commission for Healthcare Audit and Inspection (Membership) Regulations 2003	<a href="#">S.I. 2003/3279</a>	The whole Regulations
The Commission for Social Care Inspection (Explanation and Co-operation) Regulations 2004	<a href="#">S.I. 2004/555</a>	The whole Regulations
The Commission for Healthcare Audit and Inspection (Explanations, Statements of Action and Co-operations) Regulations 2004	<a href="#">S.I. 2004/557</a>	The whole Regulations
The Commission for Social Care Inspection (Children's Rights Director) Regulations 2004	<a href="#">S.I. 2004/615</a>	The whole Regulations
The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Transitional and Consequential Provisions) Order 2004	<a href="#">S.I. 2004/664</a>	The whole Order
The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004	<a href="#">S.I. 2004/2987</a>	The whole Order
The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection) (Transitional Provisions) Order 2005	<a href="#">S.I. 2005/631</a>	The whole Order
The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No.8) Order 2005	<a href="#">S.I. 2005/2925</a> <a href="#">(C.125)</a>	Article 3
The Commission for Healthcare Audit and Inspection (Defence Medical Services) Regulations 2008	<a href="#">S.I. 2008/1181</a>	The whole Regulations