

**EXPLANATORY MEMORANDUM TO  
THE CARE ACT 2014 (CONSEQUENTIAL AMENDMENTS) (SECONDARY  
LEGISLATION) ORDER 2015**

**2015 No. 643**

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

**2. Purpose of the instrument**

2.1. The instrument makes amendments to secondary legislation in consequence of Part 1 of the Care Act 2014.

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

3.1. None.

**4. Legislative Context**

4.1 Part 1 of the Care Act 2014 makes provision in respect of adult social care law (including the law relating to adult carers who are caring for adults) in relation to England. It is currently the intention that these provisions in the Care Act will be brought into force on 1 April 2015.

4.2 The Social Services and Well-being (Wales) Act 2014 (“the Welsh Act”) makes provision (in relation to Wales) in respect of adult social care law and also makes provision in relation to children. These provisions will not come into force on 1 April 2015. It is currently the intention that the provisions of the Welsh Act will come into force on 1 April 2016, though this is a matter for Welsh Ministers.

4.3 In light of the provisions in Part 1 of the Care Act 2014, amendments have been made to existing primary legislation in the Draft Care Act 2014 and Children and Families Act 2015 (Consequential Amendments) Order 2015 (currently before Parliament) to effectively disapply the existing provisions in respect of England. The existing provisions however need to continue to apply in relation to Wales until such time as the Welsh Act (and the necessary consequential provision) is brought into force by the Welsh administration.

4.4 This instrument makes consequential amendments to the provisions in secondary legislation that currently underpin the provision of social care to “carve out” England and, where applicable, to leave the provisions applying only to Wales. It also makes consequential amendments to other secondary legislation, to reflect the carve out in respect of England and the new provisions under the Care Act. The instrument also makes certain savings for transitional purposes.

## **5. Territorial Extent and Application**

The instrument has the same extent as the instruments amended.

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

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

## **7. Policy background**

7.1. Part 1 of the Care Act 2014 is a crucial step in delivering the commitments in the Government's white paper *Caring for our future: reforming care and support*, which set out our vision for a modern system which promotes people's well-being by enabling them to prevent and postpone the need for care and support and to pursue opportunities, including education and employment, to realise their potential. It takes forward the recommendations of the Law Commission to consolidate existing care and support law into a single, unified, modern statute. It refocuses the law around the person not the service, strengthens rights for carers to access support, and introduces a new adult safeguarding framework. It also provides for the proposals of the Commission on the Funding of Care and Support to introduce a cap on the care costs that people will spend in their lifetime, although these provisions will not come into force on 1 April 2015.

7.2. Because of the sweeping nature of this legislation – consolidating 60 years of fragmented law into a single statute, there is necessarily a large number of consequential amendments to other legislation.

7.3. Many of these amendments insert references to the Care Act 2014 in other legislation, though the references to the existing legislation will continue to apply in relation to local authorities in Wales. This is because Welsh local authorities will be subject to existing legislation until the Welsh Act comes into force, and so it will be amendments consequent to that Act that will be the mechanism for revoking previous legislation in relation to Wales, in due course.

7.4. There is also a range of other amendments that replace references to previous social care legislation in other statutory instruments. The Department has considered these carefully with other Government Departments to ensure that in each case the consequential amendments replicate as far as possible the existing provision. The Department has also consulted with the devolved administrations as appropriate during the drafting of the instrument.

## **8. Consultation outcome**

8.1. The provisions in the instrument are consequential on Part 1 of the Care Act 2014 and have therefore not been subject to public consultation.

## **9. Guidance**

9.1 No guidance is planned to accompany the instrument. Any guidance considered necessary further to specific amendments it makes will be given as part of the broader guidance associated with the Care Act 2014.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument. An enactment impact assessment relating to the majority of Part 1 of the Care Act 2014 can be requested via [careactconsultation@dh.gsi.gov.uk](mailto:careactconsultation@dh.gsi.gov.uk) or Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS and is available online at <http://www.legislation.gov.uk/ukpga/2014/23/resources>

## **11. Regulating small business**

11.1 The instrument will have no bearing on the regulation of existing small businesses.

## **12. Monitoring and review**

12.1 No monitoring or review of the instrument as such is planned. The Government has committed to keeping the impact of Part 1 of the Care Act 2014 under review. We will monitor the impacts of implementation of the policies contained within the Act and regulations under them on an ongoing basis. This will include continuing to work closely with local government to understand the impact of implementation of the reforms.

## **13. Contact**

13.1 Phillip Anderson at the Department of Health Tel: 0207 210 5696 or e-mail: [phillip.anderson@dh.gsi.gov.uk](mailto:phillip.anderson@dh.gsi.gov.uk) can answer any queries regarding the instrument.