

EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (QUALITY ACCOUNTS) (AMENDMENT) (No. 2) REGULATIONS 2018

2018 No. 59

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 These Regulations amend the National Health Service (Quality Accounts) Regulations 2010 (“2010 Regulations”) which prescribe information that must be published by NHS healthcare providers in the annual reports (“Quality Accounts”) they prepare on the quality of care provided by them. The 2010 Regulations were recently amended by the National Health Service (Quality Accounts) (Amendment) Regulations 2017 (“2017 Regulations”).
- 2.2 The amendments made by the 2017 Regulations prescribe new information to be included in the Quality Accounts of an NHS trust (all or most of whose hospitals, establishments and facilities are in England) and an NHS foundation trust but excluding all ambulance trusts. The new information prescribed by the 2017 Regulations relates to the deaths of patients. The purpose of these Regulations is to ensure that the new information requirements introduced by the 2017 Regulations apply only to non-ambulance NHS trusts and NHS foundation trusts and not to any other type of NHS healthcare provider.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The 2017 Regulations prescribe further information that must be published by NHS trusts and NHS foundation trusts in their Quality Accounts. The amendments made by the 2017 Regulations could be construed to apply more widely than the intended policy aim which was for the additional information requirements to apply only to NHS trusts and NHS foundation trusts (excluding ambulance trusts). These Regulations ensure that the 2010 Regulations, as amended, clearly reflect this policy aim.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 8 of the Health Act 2009¹ requires NHS healthcare providers to publish a document containing information prescribed under regulations that is relevant to the quality of NHS health services provided by them. This document is the Quality Accounts which are published on an annual basis.
- 4.2 The 2010 Regulations prescribe the information that must be contained in the Quality Accounts that NHS healthcare providers are required to publish each year in accordance with section 8 of the Health Act 2009. The 2010 Regulations impose obligations on NHS healthcare providers, some of which apply to all such providers and some which apply only to certain categories of providers.
- 4.3 The 2017 Regulations amended the 2010 Regulations to require additional information to be included by NHS trusts and NHS foundation trusts (excluding ambulance trusts) in their Quality Accounts. This new information relates to the deaths of patients in the care of such trusts. These Regulations amend the 2010 Regulations to ensure that the obligation to provide the additional information only applies to NHS trusts and NHS foundation trusts (excluding ambulance trusts).

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 The 2017 Regulations amend the 2010 Regulations by prescribing additional information that must be provided by NHS healthcare providers in the Quality Accounts that they are required to publish annually. This additional information relates to deaths of patients provided with NHS healthcare services.
- 7.2 The 2017 Regulations state that the additional information is prescribed under sections 8(1) and (3) of the Health Act 2009. In prescribing the information for the purposes of section 8(3) as well as 8(1), the amendments made by the 2017 Regulations could be read as placing a requirement to publish the additional information not only on NHS trusts and NHS foundation trusts but also on other categories of NHS healthcare providers. This was not the intention of the amendments made by the 2017 Regulations which was to place the requirement to publish information on patient deaths only on NHS trusts and NHS foundation trusts (excluding ambulance trusts). These Regulations make amendments to the 2010 Regulations to address this.

Consolidation

- 7.3 The Department currently has no plans to consolidate the 2010 Regulations.

¹ Health Act 2009 (c.21) - http://www.opsi.gov.uk/acts/acts2009/ukpga_20090021_en_1

8. Consultation outcome

8.1 No consultation has been undertaken in relation to these Regulations.

9. Guidance

9.1 Guidance as to the new requirements on NHS trusts and NHS foundation trusts to publish information on patient mortality is set out in *National Guidance on Learning from Deaths* which is available at <https://improvement.nhs.uk/resources/learning-deaths-nhs-national-guidance/>.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 Quality Accounts policy will continue to be examined between the Department of Health and Social Care and its stakeholder organisations and tested against the experiences of frontline practitioners and management, and patients and the public.

13. Contact

13.1 Shaleel Kesavan at the Department of Health and Social Care (Tel: 01132 545954 or email: shaleel.kesavan@dh.gsi.gov.uk) can answer any queries regarding this instrument.