

**EXPLANATORY MEMORANDUM TO  
THE HEALTH AND SOCIAL CARE ACT 2012 (CONSEQUENTIAL  
AMENDMENTS) ORDER 2013**

**2013 No. [XXXX]**

**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**

The instrument amends six Acts of Parliament in consequence of the Health and Social Care Act 2012.

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

None.

**4. Legislative Context**

4.1 Most of the amendments to primary legislation that are needed in consequence of the Health and Social Care Act 2012 are included in the Act itself. This order makes a small number of further amendments.

4.2 Secondary legislation also needs amending as a consequence of the Act. Three orders have brought some consequential amendments to secondary legislation into effect on dates between 1 August and 1 December 2012,<sup>1</sup> and a further order is planned to make consequential amendments to come into effect on 1 April 2013. Other amendments are included along with new provision in other instruments made by the Department of Health.

**5. Territorial Extent and Application**

The instrument has the same extent as the instruments amended: that is, the UK for the Vehicle Excise and Registration Act 1994, Great Britain for the Welfare Reform Act 2012, and otherwise England and Wales.

**6. European Convention on Human Rights**

The Secretary of State for Health has made the following statement regarding Human Rights:

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<sup>1</sup> *The Health and Social Care Act 2012 (Consequential Provision – Social Workers) Order SI 2012/1479, The NHS Commissioning Board Authority (Abolition and Transfer of Staff, Property and Liabilities) and the Health and Social Care Act (Consequential Amendments) Order SI 2012/1641, and The Health and Social Care Act 2012 (Consequential Amendments – the Professional Standards Authority for Health and Social Care) Order SI 2012/2672.*

In my view the provisions of the Health and Social Care Act 2012 (Consequential Amendments) Order 2013 are compatible with the Convention rights.

## **7. Policy background**

- What is being done and why

7.1 As explained in paragraph 6 of the explanatory notes to the Health and Social Care Act 2012:

“The main aims of the Act are to change how NHS care is commissioned through the greater involvement of clinicians and a new NHS Commissioning Board; to improve accountability and patient voice; to give NHS providers new freedoms to improve quality of care; and to establish a provider regulator to promote economic, efficient and effective provision. In addition, the Act will underpin the creation of Public Health England, and take forward measures to reform health public bodies.”

7.2 The instrument makes a small number of minor amendments to primary legislation in consequence of the Act. The most substantive are to the Audit Commission Act 1998, to ensure that clinical commissioning groups are subject to the provisions of that Act that apply to health service bodies. The others are minor, for example removing references to Primary Care Trusts (which are abolished by the Act) and updating a cross-reference to the NHS Act 2006.

- Consolidation

7.3 The instrument makes minor amendments to six Acts of Parliament. It is not the Department of Health’s intention to consolidate the legislation involved.

## **8. Consultation outcome**

The provisions in the instrument are consequential on the Health and Social Care Act 2012 and have therefore not been subject to public consultation

## **9. Guidance**

No guidance is planned to accompany the instrument, since it makes only minor adjustments to existing arrangements.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument. The Impact Assessment for the Health and Social Care Act 2012 as a whole is available at:

[www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH\\_123583](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583)

and updated figures have since been published at:

<http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm121018/wmstext/121018m0001.htm#12101829000017>

However, the impact attributable to the changes in the instrument is minimal.

#### **11. Regulating small business**

The legislation does not apply to small business.

#### **12. Monitoring & review**

No monitoring or review of the instrument as such is planned. The Department of Health is however committed to carrying out post-legislative review of the Health and Social Care Act 2012 within three years of Royal Assent (see for example, Lords Official Report, 21 December 2011 column 1820).

#### **13. Contact**

Jenny Harper at the Department of Health Tel: 020 7210 5963 or email: [Jenny.Harper@dh.gsi.gov.uk](mailto:Jenny.Harper@dh.gsi.gov.uk) can answer queries regarding the instrument.