

EXPLANATORY MEMORANDUM TO
THE PUBLIC HEALTH ENGLAND (DISSOLUTION) (CONSEQUENTIAL
AMENDMENTS) REGULATIONS 2021

2021 No. 974

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care (DHSC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument makes amendments to regulations in consequence of the dissolution of Public Health England (PHE). The various regulations amended by this instrument contain references to PHE and these references are in each case substituted with a reference to the United Kingdom Health Security Agency (UKHSA), to DHSC, or are deleted, as appropriate. The UKHSA was established on 1st April 2021 and will assume some of the responsibilities and functions previously undertaken by PHE when PHE is dissolved on 30th September 2021. The remaining responsibilities and functions of PHE will pass to DHSC, NHS England and NHS Digital.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the UK.
4.2 The territorial application of this instrument varies between provisions.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 This instrument makes amendments to subordinate legislation in consequence of the dissolution of PHE and the assumption of certain responsibilities and functions by UKHSA and DHSC. The instruments being amended by the Public Health England (Dissolution) (Consequential Amendments) Regulations 2021 are:
- the National Health Service (Appointment of Consultants) Regulations 1996 (S.I. 1996/701);
 - the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc.) Regulations 2004 (S.I. 2004/629);
 - the Health Protection (Part 2A Orders) Regulations 2010 (S.I. 2010/658);
 - the Health Protection (Notification) Regulations 2010 (S.I. 2010/659);

- the Medical Profession (Responsible Officers) Regulations 2010 (S.I. 2010/2841);
- the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218); and
- the Health Protection (Coronavirus, International Travel and Operator Liability) (England) Regulations 2021 (S.I. 2021/582).

6.2 The amendments substitute references to UKHSA and DHSC, as appropriate, for the references to PHE. In one instance (the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013) the reference to PHE is deleted since it is no longer necessary.

7. Policy background

What is being done and why?

7.1 In August 2020, the Prime Minister announced the Government's intention to reform the core institutions that lead public health nationally. These changes are driven by learning from the experiences of COVID-19, but more broadly by the need to ensure we have a public health system fully fit for the future. The threats we face in the future will be different. So too will the opportunities to do more about them.

7.2 The Government's reforms to the public health system in England will ensure our national health protection capabilities are equipped for the future, put health promotion at the heart of government, and more deeply embed prevention and health improvement expertise across local and national government and the NHS.

7.3 By the 1st October:

- the health protection capabilities of PHE and NHS Test & Trace will be assumed by UKHSA – an executive agency of DHSC;
- a new Office for Health Improvement and Disparities will sit within DHSC, incorporating PHE's functions that directly support national health improvement policy; and
- the rest of PHE's health improvement and healthcare public health functions will move to NHS England and NHS Digital.

7.4 As a consequence of this transfer of functions, and of the dissolution of PHE, legislation which refers to PHE must be amended. This instrument makes amendments to references to PHE in regulations (such as requirements to consult PHE or to send information to PHE) replacing them with a reference to UKHSA and DHSC, as appropriate.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 There are no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

- 10.1 In relation to the amendments to the National Health Service (Appointment of Consultants) Regulations 1996, consultation was carried out with NHS Employers, the employers' organisation for the NHS in England, and with the relevant trade unions representing employees. These bodies are recognised by the Secretary of State as representing persons likely to be affected by the amendments, as required by paragraph 25(4) of Schedule 4 and paragraph 4(1) of Schedule 6 to the National Health Service Act 2006. The consultation raised no objections to the amendment itself however a wider issue on the scope of the provision more generally was raised, which will be taken up separately as part of the PHE staff engagement exercise.
- 10.2 Consultation with the Scottish Ministers was carried out in relation to the amendments to the Medical Profession (Responsible Officers) Regulations 2010, as required by section 45E of the Medical Act 1983.

11. Guidance

- 11.1 Not applicable as the amendments contained in this instrument are consequential and do not impose any new obligations.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact on business, charities or voluntary bodies from the amendments being made as there are no substantive changes to the obligations in the regulations being amended.

13. Regulating small business

- 13.1 This instrument does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this instrument is that monitoring will not be necessary as it only makes consequential amendments.
- 14.2 This instrument does not include a statutory review clause.

15. Contact

- 15.1 Paul Jenkins at the Department of Health and Social Care - Telephone: 020 7210 4393 or email: paul.jenkins@dhsc.gov.uk - can be contacted with any queries regarding the instrument.
- 15.2 Simon Reeve, Deputy Director of Public Health Systems and Strategy, at the Department of Health and Social Care can confirm that this explanatory memorandum meets the required standard.
- 15.3 Joanne Churchill, Parliamentary Under Secretary of State, at the Department for Health and Social Care can confirm that this explanatory memorandum meets the required standard.