

EXPLANATORY MEMORANDUM TO
THE COMMISSION FOR HEALTHCARE AUDIT AND INSPECTION
(DEFENCE MEDICAL SERVICES) REGULATIONS 2008

2008 No. 1181

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This Instrument enables the Secretary of State for Defence to arrange for the Healthcare Commission (the Commission) to conduct a review of health services for which he has responsibility. It does this by prescribing Defence Medical Services (DMS) as a health scheme for the purposes of section 124(1) of the Health and Social Care (Community Health and Standards) Act 2003.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1 These Regulations are the first to be made under Section 124(1) of the Health and Social Care (Community Health and Standards) Act 2003 and prescribe, as required by that section and section 148 of that Act, Defence Medical Services as a health scheme for the purposes of section 124(1). The Regulations enable the Healthcare Commission and a Minister of the Crown to make arrangements for the Healthcare Commission to perform any of its functions or provide its services in relation to a prescribed publicly funded health scheme for which the Minister has responsibility. Such arrangements with the Secretary of State for Defence were referred to in the Explanatory Notes to the 2003 Act which related to section 124.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to all of the United Kingdom.
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**
 - 7.1 Like the National Health Service (NHS), Defence Medical Service

(DMS) are publicly funded but in contrast is not currently reviewed by the Healthcare Commission. The Ministry of Defence (MoD) is responsible for the healthcare of 258, 000 Service personnel and their families. There is a need for the services provided by the DMS to be assessed in a similar way to the NHS. The Healthcare Commission, rather than another accreditation body was selected due its independence and parallel role in assessing the NHS.

7.2 As a result of this anomaly the Under Secretary of State for Defence and the Minister of State for Health Services have agreed the need for an independent review. An independent review by the Commission is seen as a constructive and cost effective approach to help drive continuous improvement in the healthcare provided to Service personnel and their families.

7.3 The proposed regulations comes at a time of continued interest into issues surrounding the medical care for the Armed Forces and, at a time when the press have reported alleged areas of sub-optimal care for service personnel and veterans within the NHS. These allegations have not however been raised towards the DMS.

Finance and legal issues

7.4 The cost of this work is well within the threshold limit and there is therefore no need to undertake a full impact assessment. The Healthcare Commission does not currently undertake any assessment of the DMS, but has confirmed that a one-off review can be supported from within its existing resources. The MoD has confirmed that the cost of facilitating the review will likewise be supported by DMS from within its current resource allocation.

Consultation

7.5 These regulations do not require formal consultation although, for best practice purposes, a 3 week consultation of key stakeholders was carried out. Around 70 organisations were consulted including the Royal Medical Colleges, Devolved Administrations, Allied Healthcare Professional bodies and other bodies with a specific interest such as the Red Cross, Services Family Association and the Defence Welfare Association. 14 responses were received in total. 13 of these were wholly or largely supportive. One respondent, the Royal British Legion, requested a seven day extension to the consultation and by the end of this period had not responded. No respondents objected to, or raised significant concerns about, the review.

Guidance

7.6 The MoD will hold seminars and work shops with the DMS, so that personnel are clear about the process, what information will be required and how the findings will be reported. No other guidance is required as there is no impact on businesses, charities or voluntary organisations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Alison Daykin at the Department of Health Tel: 02079721283 or e-mail: alison.daykin@dh.gsi.gov.uk can answer any queries regarding the instrument.