

**EXPLANATORY MEMORANDUM TO  
THE HEALTH AND SOCIAL CARE ACT 2008 (CONSEQUENTIAL AMENDMENTS  
AND TRANSITORY PROVISIONS) ORDER 2008**

**2008 No. 2250**

**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 The Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 contains amendments to regulations and orders consequential to establishing the Care Quality Commission in October 2008. It also makes a number of transitory modifications to primary legislation in relation to the establishment of the Commission.

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

3.1 None

**4. Legislative Background**

4.1 The Care Quality Commission will be established on the 1<sup>st</sup> October 2008 under the Health and Social Care Act 2008. Consequential amendments to secondary legislation are required to ensure that the Care Quality Commission is subject to a number of requirements that are placed on public bodies. Transitory provisions modifying primary legislation are also required.

**5. Territorial Extent and Application**

5.1 This instrument applies to the United Kingdom.

**6. European Convention on Human Rights**

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

In my view the provisions of the Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 are compatible with the Convention rights.

**7. Policy background**

7.1 In the 2005 budget statement, the Chancellor announced plans to reduce the number of public service inspectorates. This included the merger of the

Commission for Healthcare Audit and Inspection (known as the Healthcare Commission) and the Commission for Social Care Inspection. The Department of Health had already announced plans to bring together the Commission for Healthcare Audit and Inspection and the Mental Health Act Commission.

- 7.2 In November 2006 the Department of Health published a consultation “The Future Regulation of Health and Adult Social Care in England” which announced the Government’s intention to create a single regulator responsible for regulating health care and adult social care, and monitoring the operation of the Mental Health Act. There were over 100 responses to this consultation and the consultation and associated response can be found at:

[http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_063286](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_063286)

- 7.3 The new Care Quality Commission will replace the Commission for Healthcare Audit and Inspection, the Commission for Social Care Inspection and the Mental Health Act Commission. It will be responsible for the registration, review and inspection of certain health and adult social care services in England and the functions currently performed by the Mental Health Act Commission will transfer to the Care Quality Commission and to Welsh Ministers. The Care Quality Commission will bring together and integrate the regulation of health and social care.

- 7.4 The Care Quality Commission will be established on the 1<sup>st</sup> October 2008, but the Commission for Social Care Inspection, the Commission for Healthcare Audit and Inspection and the Mental Health Act Commission will not be dissolved until the Care Quality Commission is ready to commence full operations. This instrument makes a number of consequential amendments to secondary legislation to apply provisions that currently apply to the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection, as appropriate, to the Care Quality Commission. It also makes a number of modifications to primary legislation, which are required until the Commission for Social Care Inspection, the Commission for Healthcare Audit and Inspection and the Mental Health Act Commission are abolished; for example to ensure that the Care Quality Commission is aware of inspections that other inspectorates are planning.

## **8. Impact**

- 8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. A Regulatory Impact Assessment was prepared for the Health and Social Care Bill, which can be found at:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH\\_080433](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_080433)

## **9. Contact**

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