

Explanatory Memorandum to the National Health Service (Restructuring of The National Health Bodies: Consequential Amendments) (Wales) Order 2009 (the Consequential Amendments Order)

This Explanatory Memorandum has been prepared by the Health and Social Services Directorate General, and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

The Consequential Amendments Order provides that as a result of the *Local Health Boards (Establishment and Dissolution) (Wales) Order 2009*, and the *National Health Service Trusts (Dissolution) (Wales) Order 2009*, amendments will be made to various provisions within subordinate legislation. From the 1st October 2009, seven of the nine NHS Trusts in Wales will be dissolved, and there will be seven Local Health Boards (LHBs) in place of the current twenty-two.

The Consequential Amendments Order:

- (i) Revokes the National Health Service Trusts (Pharmaceutical Services Remuneration – Special Arrangement Order 1991. This legislation has been identified as being anachronistic in the context in which pharmaceutical services are currently provided in Wales;
- (ii) Amends references in the following Statutory Instruments to in the main substitute “Local Health Board” for National Health Service Trust”; to make provision for LHBs to be added to the list of bodies to whom the nine Statutory Instruments apply and, where appropriate, will ensure that the seven LHBs will be able to exercise certain of the functions that were formerly exercised by NHS Trusts:
 - National Health Service (Venereal Diseases) Regulations 1974;
 - National Health Service (Charges to Overseas Visitors) Regulations 1989;
 - National Health Service (Optical Charges and Payments) Regulations 1997;
 - Water Supply (Water Quality) Regulations 2001;
 - Care Homes (Wales) Regulations 2002;
 - Registration of Social Care and Independent Health Care (Wales) Regulations 2002;
 - Nurses Agencies (Wales) Regulations 2003;
 - National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007; and
 - Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008.

Matters of special interest to the Subordinate Legislation Committee

None.

Legislative Background

The power to make these Regulations is provided by section 203(9) and (10) of the National Health Service (Wales) Act 2006 (the 2006 Act).

This instrument follows the negative resolution procedure.

Purpose and intended effect of the legislation

Welsh Ministers have determined through their *One Wales* policy statement to re-design the delivery of the NHS in Wales, to improve health outcomes and ensure that the NHS delivers care effectively with their partners. The internal market is to be abolished.

The overall objective of the NHS Reform Programme is to improve the provision of healthcare services for patients. *One Wales* committed the Welsh Assembly Government to ‘...*move purposefully to end the internal market...*’, in order to improve services for patients. The end of the internal market in health is part of the wider Welsh Assembly Government determination to make co-operation, rather than competition, the bedrock of public service delivery in Wales.

On 2 April 2008, the Minister for Health and Social Services issued a Consultation Paper: *Proposals for Changing the Structure of the NHS in Wales* (the first Consultation Paper) for a 12-week consultation period. The proposals were designed to follow the changes already underway in the NHS, and proposed, amongst other things, a reduction in the number of LHBs from twenty two (22) to seven (7), with the responsibility for community services transferring from NHS Trusts to LHBs.

Consultation responses indicated that the proposals in the first Consultation Paper should go further, and there should be one organisation responsible for those services currently undertaken by LHBs and NHS Trusts. As a result, on 2 December 2008, a further Consultation Paper was published for a 12-week consultation period – *Delivering the new NHS for Wales* (the second Consultation Paper).

The Consequential Amendments Order makes amendments to various provisions within the specified legislation above, which are consequential upon the establishment of the new NHS structure in Wales from the 1st October 2009.

Implementation

It is intended the Consequential Amendments Order should come into force on the 1st October 2009.

Consultation

The proposals to change the structures of the NHS in Wales, together with 6 draft Statutory Instruments to implement these changes (second consultation only), were the subject of two separate consultations, as provided above.

The Consequential Amendments Order has not been issued for consultation as it only provides for technical legal changes to existing legislation that is consequential upon the establishment of a new structure for the provision of health services in Wales from the 1st October 2009.

Regulatory Impact Assessment

As the changes in the Consequential Amendments Order do not have any cost impact on local government, the third sector or businesses and also as a result of the changes being technical in nature, a Regulatory Impact Assessment is not required.