

**EXPLANATORY MEMORANDUM TO THE
NATIONAL INSTITUTE FOR CLINICAL EXCELLENCE (ESTABLISHMENT AND
CONSTITUTION) AMENDMENT ORDER 2005**

2005 No.497

**NATIONAL INSTITUTE FOR CLINICAL EXCELLENCE (AMENDMENT)
REGULATIONS 2005**

2005 No. 498

- 1.** This explanatory memorandum has been prepared by the Department of Health and is laid before the House of Commons by Command of Her Majesty.

This memorandum does not contain information for the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments.

2. Description

- 2.1 The National Institute for Clinical Excellence (Establishment and Constitution) Amendment Order will, with effect from 1st April 2005,
- allow NICE to take on the functions of the Health Development Agency; and
 - change NICE's name to the National Institute for Health and Clinical Excellence.
- 2.2 The National Institute for Clinical Excellence (Amendment) Regulations will, with effect from 1st April 2005,
- make consequential amendments to definitions resulting from the change in name of the Institute; and
 - bring these regulations into line with the provisions for new SpHAs

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

- 3.1 None

4. Legislative Background

4.1 The Secretary of State for Health is exercising the powers under Sections 11(1),(2), (4), 16(4), 126(3) and (4) of, and paragraphs 10, 12 and 16 of Schedule 5 to, the National Health Service Act 1977. The following legislation will be Amended:

The National Institute for Clinical Excellence Establishment and Constitution Order 1999(1); and

The National Institute for Clinical Excellence Regulations 1999(2).

These instruments relate to:

(i) the Special Health Authorities Abolition Order 2005 (S.I.2005/[.....] and specifically to the Abolition of the Health Development Agency; and

(ii) the National Patient Safety Agency (Establishment and Constitution) Amendment Order 2005(S.I. 2005/[...] in relation to the rights and liabilities relating to the functions to be transferred from the NICE to the NPSA.

5. Extent

5.1 These instruments apply in relation to England.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 The Secretary of State for Health, John Reid, announced on the 20th May 2004 a review of all Department of Health Arm's Length Bodies. As part of this review it was recommended that

- the work of the Health Development Agency should be transferred to the National Institute for Clinical Excellence; and
- responsibility for the management of the 3 Confidential Enquiries should transfer to the National Patient Safety Agency;

with effect from 1st April 2005.

7.2 The name of the Institute has been amended to reflect this change in function. As a consequence of the change of NICE's function the Welsh Assembly Government have decided to withdraw their support from NICE. As a consequence it has been agreed that the SIs are to be made in relation to England only and by the Secretary of State.

(1) S.I. 1999/220.

(2) S.I. 1999/260.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

9. Contact

Catriona Gregory at the Department of Health Tel: 020 7210 5672 or e-mail: catriona.gregory@dh.gsi.gov.uk can answer any queries regarding the instruments.