

2008 No. 2250

NATIONAL HEALTH SERVICE

PUBLIC HEALTH

SOCIAL CARE

**The Health and Social Care Act 2008 (Consequential
Amendments and Transitory Provisions) Order 2008**

Made - - - - - *20th August 2008*

Laid before Parliament *28th August 2008*

Coming into force - - - *1st October 2008*

The Secretary of State makes the following Order in exercise of the powers conferred by section 167 of the Health and Social Care Act 2008(a):

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 and comes into force on 1st October 2008.

(2) The amendment or modification of any provision by this Order has the same extent and application as the provision being amended or modified.

(3) In this Order, “the Act” means the Health and Social Care Act 2008.

Consequential amendments

2.—(1) The enactments listed in this article are amended as there specified.

(2) In regulation 1 of the National Institute for Clinical Excellence Regulations 1999(b) (citation, commencement and interpretation), in paragraph (2), in the definition of “health service body” which applies in relation to England(c)—

(a) at the end of paragraph (m) omit “and”; and

(b) after paragraph (n) add—

“and

(o) the Care Quality Commission;”.

(a) 2008 c.14.

(b) S.I. 1999/260; relevant amending instruments are S.I. 2004/696 and 2005/498.

(c) The definition of “health service body” was substituted in relation to England by S.I. 2005/498.

(3) In Schedule 1 to the Redundancy Payments (Continuity of Employment in Local Government, etc) (Modification) Order 1999(a) (employment to which this order applies: employers immediately before the relevant event), in Section 10 (miscellaneous bodies), after paragraph 6A insert—

“6AA The Care Quality Commission.”.

(4) The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(b) are amended as follows.

(a) In regulation 1 (citation, commencement and interpretation), in paragraph (2), in the definition of “health service body”, after paragraph (h) add—

“(i) the Care Quality Commission;”.

(b) In regulation 5 (disqualification for appointment: chairman and non-officer members), in paragraph (1)—

(i) in sub-paragraph (d) for the words “subject to sub-paragraph (dza),” substitute—

“subject to sub-paragraphs (dza) and (dzb),”; and

(ii) after sub-paragraph (dza) insert—

“(dzb) he is a person who was removed from office as the chairman or as a member of the Care Quality Commission because the Secretary of State was satisfied that one of the conditions specified in paragraph 3(3)(a) or (b) of Schedule 1 to the Health and Social Care Act 2008 was satisfied in relation to him;”.

(5) In regulation 1 of the NHS Professionals Special Health Authority Regulations 2003(c) (citation, commencement, application and interpretation), in paragraph (3), in the definition of “health service body”—

(a) at the end of paragraph (j) omit “and”; and

(b) after paragraph (k) add—

“and

(l) the Care Quality Commission;”.

(6) In regulation 1 of the Health Protection Agency Regulations 2005(d) (citation, commencement and interpretation), in paragraph (3), in the definition of “health service body”—

(a) at the end of paragraph (s) omit “and”; and

(b) after paragraph (t) add—

“and

(u) the Care Quality Commission;”.

(7) In regulation 1 of the NHS Institute for Innovation and Improvement Regulations 2005(e) (citation, commencement, application and interpretation), in paragraph (3), in the definition of “health service body”—

(a) at the end of paragraph (j) omit “and”; and

(b) after paragraph (k) add—

“and

(l) the Care Quality Commission;”.

(a) S.I. 1999/2277; relevant amending instruments are S.I. 2001/866, 2002/532 and 2004/1682.

(b) S.I. 2000/89; relevant amending instruments are S.I. 2004/664 and 2005/525.

(c) S.I. 2003/3060, to which there are amendments not relevant to this Order.

(d) S.I. 2005/408, to which there are amendments not relevant to this Order.

(e) S.I. 2005/1447, to which there are amendments not relevant to this Order.

(8) In regulation 1 of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005(a) (citation, commencement, and interpretation), in paragraph (2), in the definition of “health service body”—

- (a) at the end of paragraph (j) omit “and”; and
- (b) after paragraph (k) add—

“and

- (l) the Care Quality Commission;”.

(9) In regulation 1 of the NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) Regulations 2005(b) (citation, commencement and interpretation), in paragraph (2), in the definition of “health service body”—

- (a) at the end of paragraph (j) omit “and”; and
- (b) after paragraph (k) add—

“and

- (l) the Care Quality Commission;”.

(10) In regulation 1 of the Appointments Commission Regulations 2006(c) (citation, commencement and interpretation), in paragraph (2), in the definition of “health service body”—

- (a) at the end of paragraph (o) omit “or”; and
- (b) after paragraph (p) add—

“or

- (q) the Care Quality Commission;”.

(11) In the Schedule to the National Assembly for Wales (Disqualification) Order 2006(d) (offices disqualifying holders from membership of the National Assembly), in Part 1 (bodies of which all members are disqualified), after the entry relating to the Care Council for Wales insert—

“Care Quality Commission;”.

Transitory provisions

3.—(1) The enactments listed in this article are modified as there specified.

(2) Until the coming into force of paragraph 53 of Schedule 5 to the Act, Schedule A1 to the Prison Act 1952 (further provision about Her Majesty’s Chief Inspector of Prisons)(e) is modified as follows—

- (a) in paragraph 2(2), after paragraph (e) insert—

“(ea) the Care Quality Commission;” and

- (b) in paragraph 3(2), after paragraph (b) insert—

“(ba) the Care Quality Commission;”.

(3) Until the coming into force of paragraph 60 of Schedule 5 to the Act, section 48(6) of the Copyright, Designs and Patents Act 1988 (“the Crown” includes certain bodies with health-related functions)(f) is modified by inserting “the Care Quality Commission,” after the words “section 18 of the National Health Service Act 2006,”.

(a) S.I. 2005/2415, to which there are amendments not relevant to this Order.

(b) S.I. 2005/2531, to which there are amendments not relevant to this Order.

(c) S.I. 2006/2380.

(d) S.I. 2006/3335.

(e) 1952 c.52. Schedule A1 was inserted by the Police and Justice Act 2006 (c.48), section 28(2).

(f) 1988 c.48. Section 48(6) was inserted by the National Health Service and Community Care Act 1990 c.19), Schedule 8, paragraph 3 and amended by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 4, paragraph 72, the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraph 112, S.I. 1991/194, S.I. 1999/2795, S.I. 2000/90 and S.I. 2004/2987.

(4) Until the coming into force of paragraph 63 of Schedule 5 to the Act, Schedule 4A to the Police Act 1996 (further provision about Her Majesty’s Inspectors of Constabulary)(a) is modified as follows—

- (a) in paragraph 2(2), after paragraph (e) insert—
“(ea) the Care Quality Commission,”;
- (b) in paragraph 3(2), after paragraph (c) insert—
“(ca) the Care Quality Commission;” and
- (c) in paragraph 4, after paragraph (e) insert—
“(ea) the Care Quality Commission,”.

(5) Until the coming into force of paragraph 66(2) and (3) of Schedule 5 to the Act, in section 33 of the Audit Commission Act 1998 (studies for improving economy etc in services)(b), subsection (6) is modified as follows—

- (a) in paragraph (c), after the word “consult” insert “the Care Quality Commission,”; and
- (b) in paragraph (d), after the word “consult” insert “the Care Quality Commission and”.

(6) Until the coming into force of paragraph 67(2) of Schedule 5 to the Act, in section 34 of the Audit Commission Act 1998 (reports on impact of statutory provisions etc.), subsection (6)(ba) is modified by inserting “the Care Quality Commission and” before “the Commission for Social Care Inspection”(c).

(7) Until the coming into force of paragraph 69 of Schedule 5 to the Act, Schedule 2A to the Audit Commission Act 1998 (interaction with other authorities)(d), paragraph 1(1) is modified by inserting after paragraph (f)—

“(fa)the Care Quality Commission;”.

(8) Until the coming into force of paragraph 70 of Schedule 5 to the Act, in section 25 of the Local Government Act 1999 (co-ordination of inspections etc.)(e), subsection (2) is modified by inserting after paragraph (d)—

“(da) the Care Quality Commission;”.

(9) Until the coming into force of paragraph 71 of Schedule 5 to the Act, the Schedule to the Crown Prosecution Service Inspectorate Act 2000 (further provision about Her Majesty’s Chief Inspector of the Crown Prosecution Service)(f) is modified as follows—

- (a) in paragraph 2(2) after paragraph (e) insert—
“(ea) the Care Quality Commission;” and
- (b) in paragraph 4 after paragraph (e) insert—
“(ea) the Care Quality Commission,”.

(10) Until the coming into force of paragraph 74 of Schedule 5 to the Act, Schedule 1A to the Criminal Justice and Court Services Act 2000 (further provision about the Inspectorate)(g) is modified as follows—

- (a) in paragraph 2(2), after paragraph (e) insert—
“(ea) the Care Quality Commission;”;

(a) 1996 c.16. Schedule 4A was inserted by the Police and Justice Act 2006, section 29(2). Relevant amendment is made by S.I. 2008/912.

(b) 1998 c.18. Subsection (6)(d) was inserted by the Health and Social Care (Community Health and Standards) Act 2003, Schedule 9, paragraph 12 (5). Relevant amendments to subsection (6)(c) and (d) were made by the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 12(5), the Local Government and Public Involvement in Health Act 2007 (c.28), section 153(2)(b) and S.I. 2004/2987.

(c) Subsection (6)(ba) was inserted by the Health and Social Care (Community Health and Standards) Act 2003, Schedule 9, paragraph 12(7).

(d) Schedule 2A was inserted by the Local Government and Public Involvement in Health Act 2007, section 149(4) and Schedule 11.

(e) 1999 c.27. Subsection (2)(d) was inserted by the Learning and Skills Act 2000, section 73(3)(a).

(f) 2000 c. 10. The Schedule was inserted by the Police and Justice Act 2006, section 30(2).

(g) 2000 c.43. Schedule 1A was inserted by the Police and Justice Act 2006, section 31(2).

(b) in paragraph 3(2), after paragraph (b) insert—

“(ba) the Care Quality Commission;” and

(c) in paragraph 4, after paragraph (e) insert—

“(ea) the Care Quality Commission.”

(11) Until the coming into force of paragraph 75 of Schedule 5 to the Act, Schedule 3A to the Courts Act 2003 (further provision about the Inspectors of Court Administration)(a) is modified as follows—

(a) in paragraph 2(2), after paragraph (e) insert—

“(ea) the Care Quality Commission;” and

(b) in paragraph 4, after paragraph (e) insert—

“(ea) the Care Quality Commission.”

(12) Until the coming into force of paragraph 76 of Schedule 5 to the Act, section 62 of the Public Audit (Wales) Act 2004 (co-operation with Assembly, Audit Commission or CHAI)(b) is modified by omitting the word “or” and inserting after paragraph (b)—

“(ba) the Care Quality Commission, or”.

(13) Until the coming into force of paragraph 81 of Schedule 5 to the Act, paragraph 1 of Schedule 13 to the Education and Inspections Act 2006 (interaction with other authorities)(c) is modified as follows—

(a) in sub-paragraph (2), after paragraph (e) insert—

“(ea) the Care Quality Commission;” and

(b) in sub-paragraph (3)(f), for “(2)(f)” substitute “(2)(ea)”.

(14) Until the coming into force of paragraph 82 of Schedule 5 to the Act, in section 9 of the National Health Service Act 2006 (NHS contracts)(d), subsection (4) is modified by inserting after paragraph (j)—

“(ja)the Care Quality Commission.”

(15) Until the coming into force of paragraph 85 of Schedule 5 to the Act, in section 71 of the National Health Service Act 2006 (schemes for meeting losses and liabilities etc of certain health service bodies), subsection (2) is modified by inserting after paragraph (e)—

“(ea) the Care Quality Commission.”

Signed by the authority of the Secretary of State for Health

20th August 2008

Ann Keen
Parliamentary Under Secretary of State
Department of Health

(a) 2003 c.39. Schedule 3A was inserted by the Police and Justice Act 2006, section 32(2).

(b) 2004 c.23.

(c) 2006 c.40.

(d) 2006 c.41.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to certain regulations and orders consequential on the establishment of the Care Quality Commission under section 1 of the Health and Social Care Act 2008 (“the 2008 Act”) on the 1st October 2008. It also makes transitory provision by inserting references to the Care Quality Commission pending the abolition of the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection and the bringing into force of permanent amendments to the primary legislation contained in various paragraphs of Schedule 5 to the 2008 Act.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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