

Draft Order laid before Parliament under section 195(5) of the Health and Social Care (Community Health and Standards) Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

**CHILDREN AND YOUNG PERSONS
NATIONAL HEALTH SERVICE,
ENGLAND AND WALES
PUBLIC HEALTH
SOCIAL CARE**

The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004

Made - - - - []

Coming into force - - []

Whereas a draft of this instrument was laid before Parliament in accordance with section 195(5) of the Health and Social Care (Community Health and Standards) Act 2003⁽¹⁾ and approved by a resolution of each House of Parliament.

Now, therefore, the Secretary of State, in exercise of the powers conferred upon him by section 201(1) of the Health and Social Care (Community Health and Standards) Act 2003 and of all other powers enabling him in that behalf, and after consulting, where appropriate, the National Assembly for Wales, hereby makes the following Order:—

(1) 2003 c. 43 (“the Act”); by virtue of section 200(2) of the Act, the powers are exercised by the “appropriate authority” who is defined in section 199(2)(b)(i) as the Secretary of State in relation to section 42 (the Commission for Social Care Inspection), and in section 199(2)(b)(iv) as the Secretary of State after consulting the Assembly in relation to section 41 (the Commission for Healthcare Audit and Inspection) and section 44 (abolition of former regulatory bodies). See section 202 of the Act regarding the extent of the Secretary of State’s powers relating to this instrument.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 and shall come into force on the day after the day on which it is made.

(2) The amendment, repeal or revocation of any provision by this Order has the same extent as the provision being amended, repealed or revoked.

Consequential amendments, repeals and revocations

2.—(1) The enactments specified below are amended as there specified—

- (a) in the Audit Commission Act 1998, in section 33(6)(c) (studies for improving economy etc. in services)(2), for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”;
- (b) in the Copyright, Designs and Patents Act 1988, in section 48(6) (material communicated to the Crown in the course of public business)(3)—
 - (i) after “National Health Service Act 1977,” insert “the Commission for Social Care Inspection,”; and
 - (ii) for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”;
- (c) in the National Health Service and Community Care Act 1990, in section 4(2) (ff) (NHS contracts)(4) and section 21(2)(bb) (schemes for meeting losses and liabilities etc. of certain health service bodies)(5), for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”;
- (d) in the National Health Service Reform and Health Care Professions Act 2002, in section 20(7)(b) (the Commission for Patient and Public Involvement in Health)(6), for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”;
- (e) in the Race Relations Act 1976, in Schedule 1A, Part 2 (bodies and other persons subject to general statutory duty)(7), in the appropriate alphabetical order of the entries in that Part, insert entries for the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection;

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- (2) 1998 c. 18; section 33(6)(c) was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), section 12(5). The functions of the Secretary of State under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) (“the 1999 Order”), article 2; see the entry in Schedule 1 for the Audit Commission Act 1998.
 - (3) 1988 c. 48; section 48(6) was inserted by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 60, Schedule 8, Part 1, paragraph 3, and was amended by S.I. 1991/194, 1999/2795, 2000/90, and by the Act, section 34, Schedule 4, paragraphs 71 and 72 in relation to England and Wales, and from a date to be appointed in relation to Scotland. See also S.I. 2004/664.
 - (4) 1990 c. 19; paragraph (ff) was inserted by the Health Act 1999 (c. 8) (“the 1999 Act”), section 65, Schedule 4, paragraphs 74 and 76(a)(ii). The functions of the Secretary of State under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the 1999 Order, article 2; see the entry in Schedule 1 for the 1990 Act.
 - (5) Paragraph (bb) was inserted by the 1999 Act, section 65, Schedule 4, paragraphs 74, 81(1) and (2)(b). The functions of the Secretary of State under this section, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the 1999 Order, article 2; see the entry in Schedule 1 for the 1990 Act.
 - (6) 2002 c. 17.
 - (7) 1976 c. 74; Part 2 of Schedule 1A was inserted by S.I. 2001/3457, to which Part there are amendments not relevant to this Order.

- (f) in the Road Traffic Act 1988, in section 144(2) (exemptions from requirement of third-party insurance or security)(**8**)—
- (i) in paragraph (da), for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”; and
 - (ii) at the end, add “(g) to a vehicle owned by the Commission for Social Care Inspection, at a time when the vehicle is being driven under the owner’s control”;
- (g) in the Vehicle Excise and Registration Act 1994, in Schedule 2 (exempt vehicles), in paragraph 7(**9**)—
- (i) in sub-paragraph (c), for “Commission for Health Improvement” substitute “Commission for Healthcare Audit and Inspection”; and
 - (ii) after paragraph (e), add—
 - “or
 - (f) the Commission for Social Care Inspection”.
- (2) The enactments specified below are repealed or revoked (as the case may be) to the extent specified—
- (a) in the Race Relations Act 1976, in Schedule 1A, Part 2, the reference to the Commission for Health Improvement; and
 - (b) in the Schedule to the Race Relations Act 1976 (General Statutory Duty) Order 2001(**10**), the reference to the Commission for Health Improvement.

Signed by authority of the Secretary of State for Health

[Date]

Parliamentary Under Secretary of State,
Department of Health

(**8**) 1988 c. 52; paragraph (da) was inserted by the 1990 Act, section 60, Schedule 8, Part I, paragraph 4; it was amended by S.I. 1999/2795, 2000/90 and by the 2002 Act, section 6(2), Schedule 5, paragraph 29. There are other amendments to subsection (2) that are not relevant to this Order. See also S.I. 2004/664.

(**9**) 1994 c. 22; paragraph 7 was amended by S.I. 1999/2795 and 2000/90, by the 2002 Act, section 6(2), Schedule 5, paragraph 39, and by the Act, section 34, Schedule 4, paragraphs 95 and 96 in relation to England and Wales, and from a date to be appointed in relation to Scotland. See also S.I. 2004/664.

(**10**) S.I. 2001/3457.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Health and Social Care (Community Health and Standards) Act 2003 (Commission for Healthcare Audit and Inspection and Commission for Social Care Inspection) (Consequential Provisions) Order 2004 No. 2987

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments, and a repeal and a revocation consequential on Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 (“the Act”). Part 2 of the Act is concerned with the establishment and functions of the Commission for Healthcare Audit and Inspection (“the CHAI”) and the Commission for Social Care Inspection (“the CSCI”). The statutory functions of the National Care Standards Commission, which was established under the Care Standards Act 2000 and which is abolished under the Act, are transferred under the Act in part to the CSCI and in part to the CHAI. The CHAI will, in addition, carry out functions formerly carried out by the Commission for Health Improvement (“the CHI”) which was established under the Health Act 1999, and which is also abolished under the Act.

Article 2(1) amends references in primary legislation to the CHI to the CHAI. It also inserts references to the CHAI and to the CSCI in primary legislation.

Article 2(2) repeals or revokes (as the case may be) references to the CHI in primary and subordinate legislation.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.