

**EXPLANATORY MEMORANDUM TO**  
**THE PRIVATE AND VOLUNTARY HEALTH CARE (ENGLAND)**  
**(AMENDMENT NO. 2) REGULATIONS 2006**

**2006 No. 1734**

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

**2 Description**

This Statutory Instrument, made under the Care Standards Act 2000 (“the 2000 Act”), amends with effect from 1st August 2006 the fee provisions for private and voluntary health care providers registerable with the Commission for Health Care Audit and Inspection, known as the Healthcare Commission. It does this by inserting provision in the Private and Voluntary Health Care (England) Regulations 2001 (“the 2001 Regulations”) and by revoking the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 (“the 2004 Regulations”) and the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2005 (“the 2005 Regulations”). This completes changes started earlier this year in the Private and Voluntary Health Care (England) (Amendment) Regulations 2006 with amendment to the frequency of inspection requirements

Regulation 2 inserts definitions to the 2001 Regulations to cover the requirements of this amending Regulation.

Regulation 3 provides a new regulation 32B in the 2001 Regulations setting due dates for the payment of annual fees by those registered with the Healthcare Commission as follows:

- For existing providers registered with the Commission:
  - if their annual fee was due for payment between 1st April 2006 and 31st July 2006 inclusive the due date for this year only will be 1st August 2006 and for following years it will be the anniversary of the date on which their annual fee is payable under the 2004 Regulations – the Commission has not collected annual fees from existing providers during the period 1st April 2006 and 31st July 2006 and no provider covered by this provision will be required to pay more than more annual fee in the period 1 April 2006 to 31<sup>st</sup> March 2007 ;
  - if their annual fee is due between 1st August 2006 and 31 March 2007 the due date will remain unchanged as the anniversary of the date on which the annual fee was payable under the 2004 Regulations; and

- in the case of a new provider, the date on which their registration certificate is issued and thereafter on the anniversary of that date.

Regulation 4 revokes the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 and the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) (Amendment) Regulations 2005.

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

This Regulation adds a provision to the 2001 Regulations and revokes both the 2004 and 2005 Regulations.

### **4 Legislative Background**

Full commencement of section 105 of the Health and Social Care (Community Health and Standards) Act 2003 (which inserts a new section 113A into the 2000 Act) transfers to the Healthcare Commission responsibility for setting fees for those private and voluntary healthcare providers registered with then Commission under the 2000 Act. The Commission have consulted on their new scale of fees and their proposals were approved by Ministers earlier this year. The Commission have consulted on and published their new scale of fees and have notified all existing registered providers. The new scale of fees, which applies for the year 2006/2007, will be applied from 1 August 2006.

### **5 Extent**

This instrument applies to England.

### **6 European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

### **7 Policy background**

The policy objective is to fulfil the provisions of the 2003 Act in transferring responsibility for fee setting from the Secretary of State to the Commission.

### **8 Impact**

A Regulatory Impact Assessment is attached as an Annex.

### **9 Contact**

Mark Noterman at the Department of Health, Tel 020 7972 1283 or e-mail [mark.noterman@dh.gsi.gov.uk](mailto:mark.noterman@dh.gsi.gov.uk), can answer any queries regarding the instrument.

## **Regulatory Impact Assessment.**

### **Purpose and intended effect**

#### **Objectives**

1. These changes are based on the following objectives:
  - To facilitate the transfer to the Regulator – the Healthcare Commission – the responsibility for setting the fees they receive from registered private and voluntary health providers.
  - To rationalise and reduce the burden of Regulations applicable to the sector.

#### **Background**

2. Independent healthcare providers in England must register with the Healthcare Commission, under the Care Standards Act 2000. Currently, about 1,700 providers are registered, made up of:
  - hospitals: acute (10%) and mental health (10%)
  - specialist/clinic services (25%)
  - private doctors (15%)
  - non-surgical laser/lights operators - principally beauty salons (40%)
3. Acute hospitals typically range from around 20 beds to 200, with the average size being 46. Mental health hospitals range from less than 10 beds to more than 200, with the average size being 34 beds. Clinics/specialist units, private doctors and laser/light establishments are small businesses often employing very few staff.
4. Currently the Regulatory requirement is that the Healthcare Commission's fees are set by the Secretary of State. This Regulation is a very minor part of a suite of changes which enable the Commission to set their own fees. This includes:
  - full commencement of section 105 of the Health and Social Care (Community Health and Standards) Act 2003 (inserting a new section 113A into the 2000 Act) which transfers to the Healthcare Commission responsibility for fee setting for those private and voluntary healthcare providers registered with the Commission; and
  - revocation of the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 and the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) (Amendment) Regulations 2005 which provide the current structure of fees.

5. The Commission have refrained from collecting fees from existing providers until their powers and new fees scheme are fully in place. This Regulation regularises this payment delay, and settles dates for this year and thereafter.

### **Rationale for intervention**

6. The driver for action is recognition of the need to place the responsibility for fee setting at the level closest, and most likely to be responsive, to the needs of providers.

### **Options**

7. In this section, we set out the options considered and our preferred way forward, which we have considered against our objectives above and the terms of relevant legislation.

### **Fees payment dates**

**A** Do nothing – retain existing fee setting structures.

**B** Implement the provisions of the Health and Social Care (Community Health and Standards) Act 2003 giving the Commission responsibility for setting its own fees, and settle payment dates for the year 2006/07 and thereafter.

8. Our chosen option is B, with recognition that this fulfils the intention of Parliament as expressed in the 2003 Act.

### **Costs and benefits**

#### **Who is affected?**

9. These Regulations affect all those establishments currently registered under the Care Standards Act 2000 whose annual fee for 2006/07 should have been paid in the period 1 April – 31 July 2006. For this group, for this year only, their fees will not be due until 1 August 2006. Payment dates are not changed for other providers or for future years.

#### **Financial costs and benefits**

10. These Regulations do not increase or add additional costs to any registered provider.

#### **Burden of regulation**

11. These changes minimally reduce the overall burden on registered providers by revoking Regulations and switching the fee setting role to the Commission.

#### **Economic impact**

12. The proposed changes do not increase economic impact.

**Declaration**

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

Signed: *Andrew Burnham*

Date: 28th June 2006

Minister of State, Department of Health

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