

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH AND SOCIAL CARE ACT 2012 (CONSEQUENTIAL**  
**AMENDMENTS – THE PROFESSIONAL STANDARDS AUTHORITY FOR**  
**HEALTH AND SOCIAL CARE) ORDER 2012**

**2012 No. 2672**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The purpose of this instrument is to make provisions which are consequential on the commencement of section 222 and 223 of the Health and Social Care Act 2012 (the 2012 Act) which provide for the change in the name of the Council for Healthcare and Regulatory Excellence (CHRE) to the Professional Standards Authority for Health and Social Care (PSA).
  - 2.2 The 2012 Act abolished the General Social Care Council and transferred its function for regulation of social workers in England, to the Health and Care Professions Council (HCPC).
  - 2.3 CHRE has oversight of the HCPC. The CHRE/PSA function which related to interests of the health and safety of users of health care will extend to users of social care and social work in England. The change in name of the CHRE to the PSA reflects this extension.
  - 2.4 Although the majority of the consequential amendments are covered by section 222 of the Health and Social Care Act 2012, a very small number of amendments need to be made through this consequential amendment order. These are technical changes stemming from the fact that in other statutory instruments the term “CHRE” has been used rather than “the Council for Healthcare Regulatory Excellence” or “the Council”, which is provided for in the 2012 Act.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 The CHRE will have its name changed to the PSA on the 1<sup>st</sup> December 2012. As an interim measure, article 4 of the attached PSA Consequential Amendment Order operates on the Council for Healthcare Regulatory Excellence (Appointment, Procedure etc) Regulations 2008 to ensure the constitution of the PSA on that date. It does so by amending the definition “the Council” in those Regulations to refer to the PSA.

- 3.2 The Department recognises that this will result in a mis-match between the title of the Regulations and their content and intends to bring forward a new instrument dealing with the constitution and enlarged functions of the PSA in due course. The Department intends to do so once the basis for the charging of fees by the PSA (which is to be a self-funding body) is finally settled.

#### **4. Legislative Context**

- 4.1 Part 7 of the Health and Social Care Act 2012 makes a number of changes to the regulation of social workers and introduces the assurance of voluntary registers for social care workers. These changes include the:
- the abolition of the General Social Care Council.
  - the transfer of the function of the regulation of social workers to the Health and Care Professions Council.
  - changing the name of the Health Professions Council to the Health and Care Professions Council (HCPC);
  - changing the name and extending the functions of the CHRE to the PSA to reflect the oversight of the regulation of social workers and social carer workers in England.
  - Section 229 provides the PSA with the function to accredit voluntary registers.
- 4.2 The Health and Social Care Act 2012 (Commencement No.3 and Transitory Provision) Order 2012 commences the provision 222 in the Health and Social Care Act 2012 to change the name of CHRE to the PSA on the 1<sup>st</sup> December 2012.

#### **5. Territorial Extent and Application**

- 5.1 This instrument applies to England and Wales, Scotland and Northern Ireland.

#### **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**

- *What is being done and why*

- 7.1 The GSCC was an Executive Non-Departmental Public Body responsible for the regulation of social workers in England. The majority of its funding was provided by the Department of Health.
- 7.2 The Department of Health's Review of its arms length bodies, *Liberating the NHS, Report of the Arm's-Length Bodies Review* published on the 26<sup>th</sup> July 2010, concluded that there was no

compelling reason for the GSCC to remain in the arms length bodies sector and there were potentially significant benefits from putting the regulation of Social Workers on a similar footing to the regulation of health professions.

- 7.3 The report announced the Government's intention to abolish the GSCC and transfer the regulation of social workers in England to the Health Professions Council (HPC). The HPC is independent of the Department and funded, on a cost recovery basis, through registrant fees.
- 7.4 The function of regulation of social workers was legally transferred to the HCPC on 1<sup>st</sup> August 2012 by SI 2012 No 1480. This is followed by Commencement Order No.2 (Health and Social Care Act 2012 (Commencement No 2 and Transitional, Savings and Transitory Provisions) Order 2012 (SI 2012/1831)), which abolishes the GSCC on the 1<sup>st</sup> October 2012.
- 7.5 To reflect the additional function of oversight of the regulation of social workers, the 2012 Act provides for the change in name of the CHRE to the Professional Standards Authority for Health and Social Care (PSA).

## **8. Consultation outcome**

- 8.1 As required under Section 303(4) of the 2012 Act Scottish Ministers have been consulted on those consequential provisions in this Order that would, if included in an Act of the Scottish Parliament, fall within the legislative competence of that Parliament. Scottish Ministers have confirmed they are content with those provisions.
- 8.2 The provisions in this Order are consequential to the commencement of those sections in the 2012 Act which change the name of the CHRE to the PSA. Therefore, no other formal consultation is considered necessary.

## **9. Guidance**

- 9.1 None

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 As this a Consequential Amendment Order, due to the provision in the 2012 Act to change the name of CHRE to the PSA, an Impact Assessment has not been prepared for this Instrument.

10.4 The impact of the transfer has been considered as part of the Impact Assessment for the Health and Social Care Act 2012, (pages 133 -135), which can be found at -

<http://www.parliament.uk/documents/impact-assessments/IA11-038.pdf>

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 The PSA will be accountable to the Privy Council.

**13. Contact**

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