

EXPLANATORY MEMORANDUM TO
THE HEALTH EDUCATION ENGLAND (ESTABLISHMENT AND
CONSTITUTION) AMENDMENT ORDER 2013

2013 No. 647

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 This Order amends the Health Education England (Establishment and Constitution) Order 2012 (“the Establishment Order”) to amend the constitution of Health Education England (“HEE”) so that it is to consist of no more than 6 members who are not officers of HEE in addition to the chairman, and to provide for the transfer of specified properties and liabilities from the University of Nottingham, Derby Hospitals NHS Foundation Trust and the East Midlands Ambulance Service NHS Trust to Health Education England.

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

3.1 None

4. Legislative Context

4.1 Health Education England is a Special Health Authority established under section 28 of the National Health Service Act 2006 (the “Act”) on 28th June 2012 by the Establishment Order, which will from 1st April 2013 be directed by the Secretary of State to provide national leadership on planning and developing the health and public health workforce, and allocate education and training resources. Prior to this date, HEE has been carrying out preparatory functions.

4.2 The Secretary of State from 1st April 2013 has a new duty under section 1F of the Act (inserted by the Health and Social Care Act 2012) to secure an effective system for the planning and delivery of education and training to persons employed in connection with the health service in England. This duty will be delegated to HEE by means of directions given by the Secretary of State from 1st April 2013

This Order amends the Establishment Order to change HEE’s constitution to allow for an additional non-officer member to be appointed and to transfer property to it to enable it to better carry out its full substantive functions from 1st April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As this instrument is subject to the 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 role of the Department of Health is changing fundamentally. The Health and Social Care Act 2012 formalises the relationship between the Department and the NHS to improve transparency and increase stability while maintaining appropriate accountability. In the future, the Department will have progressively less direct involvement in the planning and development of the healthcare workforce. An independent and accountable HEE is a key component of the new arrangements for planning and commissioning education and training for the health workforce.

7.2 The Department of Health's consultation *Liberating the NHS: Developing the Healthcare Workforce* set out our intention to establish an autonomous statutory body, HEE, to provide leadership for effective planning and provision of high quality medical education.

7.3 HEE has been established as a Special Health Authority and will be responsible from 1st April 2013 for carrying out the Secretary of State's functions to secure an effective system for education and training (and take on the education functions of the Strategic Health Authorities when they are abolished on 1st April 2013). It will, at a national level, ensure that the workforce has the right skills, behaviours and training, and is available in the right numbers, to support the delivery of excellent healthcare and health improvement. It will allocate and account for NHS resources dedicated to education and training.

7.4 HEE will also enable healthcare providers and professionals to take responsibility for planning and commissioning education and training locally by establishing and supporting the development of Local Education and Training Boards (LETBs), which will be healthcare provider-led committees of HEE.

7.5 This Order, in changing the constitution of HEE and providing for the transfer of certain property to it, aims to support the efficient functioning of HEE in carrying out its role from 1st April as described above.

7.6 Within the context of the changes described above and the move to create a more autonomous and accountable NHS, the long-term plan is to place HEE on a permanent statutory footing by establishing it as an Executive Non Departmental Public Body, subject to Parliamentary approval, at which time the Special Health Authority would be abolished.

8. Consultation outcome

8.1 The principle of establishing HEE was first set out in the public consultation *Liberating the NHS: Developing the Healthcare Workforce*. The

consultation sought views on the functions and detailed proposals of the work of HEE. The Department published a summary of the consultation responses in August 2011.

8.2 A link to the consultation document *Liberating the NHS: Developing the Healthcare Workforce* can be found on the Department of Health's website at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_129428

8.3 The need for an independent HEE, and its functions, was tested further through the Listening Exercise on the Government's NHS modernisation plans. The NHS Future Forum endorsed in their report that HEE should be set up as an independent body to provide strategic oversight and national leadership for education and training of the health workforce.

8.4 A link to the NHS Future Forum's report on Education and Training can be found on the Department of Health's website at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_127543.pdf

8.5 A link to the Government's Response to the NHS Future Forum Report can be found on the Department of Health's website at:

http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_127719.pdf

Prior to the establishment of the Authority, the Secretary of State undertook a consultation under section 28 (7) of the Act, with bodies representing staff who may be transferred to the Authority by April 2013 and these responses were taken into account prior to the Establishment Order being made.

No separate consultation has taken place on this Order, as none is required by statute.

9. Guidance

9.1 The Department published its detailed policy framework for the new education and training system, *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery* in January 2011.

9.2 A link to *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery* can be found on the Department of Health's website at:

http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_132076

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 An Impact Assessment has not been prepared for this instrument as no impact on the private or voluntary sector is foreseen.

10.3 HEE was established as part of the transitional arrangements for the new system for planning and commissioning education and training of the health workforce. A full Impact Assessment was carried out for this new policy system and this can be found on the Department of Health website at:

<http://www.dh.gov.uk/en/Publicationsandstatistics/Legislation/Regulatoryimpactassessment/index.htm>

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 We will be monitoring whether the constitution of HEE as amended by this SI is the most appropriate constitution to enable it to carry out its functions..

13. Contact

Lindsey Proctor at the Department of Health Tel: 0113 2545811 or email: Lindsey.proctor@dh.gsi.gov.uk can answer any queries regarding the instrument.