

EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (AREAS OF INTEGRATED CARE BOARDS: APPOINTED DAY) REGULATIONS 2022

2022 No. 632

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to appoint the day on which, and at all times after which, NHS England must ensure that integrated care boards (“ICBs”) are established to cover the whole of England. It is also the day on which any remaining clinical commissioning groups (“CCGs”) are abolished. This instrument sets 1st July 2022 as this “appointed day”.
- 2.2 The establishment of ICBs as local health service commissioners will help promote the integration of, and joint working amongst, providers of primary care, secondary care and social care to meet the increasing health and social care needs of the population of England.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 DHSC relies on section 13 of the Interpretation Act 1978 in relation to section 19 of the Health and Care Act 2022 (“the 2022 Act”) in so far as it inserts sub-section (9) of a new section 14Z25 into the National Health Service Act 2006 (“the 2006 Act”).
- 3.2 Other amendments made by section 19 of the 2022 Act sets out, in conjunction with the provision made by this instrument, the complete legislative framework relating to the establishment of ICBs in England to arrange for the provision of certain health care services and facilities to persons for whom they have commissioning responsibility. DHSC considers that it is expedient to rely on section 13 of the Interpretation Act 1978 in relation to section 19 of the 2022 Act (to the extent outlined in paragraph 3.1 above) because it considers it desirable for reasons of clarity and certainty that the whole regime comes into force at the same time. Insofar as DHSC has not already commenced section 19 of the 2022 Act under The Health and Care Act 2022 (Commencement No. 1) Regulations 2022, DHSC intends to commence section 19 of the 2022 Act to coincide with the coming into force of this instrument.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 Subsection 14Z25(4) of the 2006 Act requires NHS England to make sure that ICBs together cover the whole of England on and after the appointed day.
- 6.2 Section 14Z27 of the 2006 Act abolishes any CCG that exists immediately before the appointed day at the beginning of the appointed day.
- 6.3 Subsection 14Z25(9) of the 2006 Act confers the power on the Secretary of State to appoint the day which is relevant for these sections.

7. Policy background

What is being done and why?

- 7.1 The 2022 Act puts in place reforms to the NHS and its structures. This includes the way in which, and by whom, NHS services are to be commissioned. The 2022 Act provides powers for commissioners and providers of NHS services to work together in the exercise of functions to improve the quality and outcomes for patients across England.
- 7.2 One of the key changes under the 2022 Act is the creation of new statutory bodies known as ICBs which replace clinical commissioning groups (“CCGs”) as the main commissioners of secondary care services. CCGs will be abolished on 1st July 2022 by these Regulations.
- 7.3 The abolition of CCGs entails considerable amendments to the 2006 Act and secondary legislation made under it. New secondary legislation, including this instrument, has also been made to provide for the establishment and effective operation of ICBs.
- 7.4 This instrument appoints 1st July 2022 as the day on and after which NHS England is required to ensure at all times that ICBs are established to cover the whole of England. It is also the date on which any remaining CCGs, which are the predecessor bodies to ICBs, are abolished.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 This instrument does not amend or consolidate any other instruments.

10. Consultation outcome

- 10.1 There is no duty to consult on the policy underpinning this instrument and no consultation has been carried as this instrument only sets the “appointed day” for establishment of ICBs.

11. Guidance

11.1 No specific guidance is to be produced in relation to these Regulations.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector as the instrument only sets the day of appointment of ICBs and abolish remaining CCGs.

12.3 A full Impact Assessment has not been prepared for this instrument because this instrument only sets out the “appointed day” for the establishment of ICBs and abolish remaining CCGs.

12.4 A full Impact Assessment has been produced in relation to the provisions of the Health and Care Act 2022 and a copy is available at: <https://www.gov.uk/government/publications/health-and-care-bill-combined-impact-assessments>.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 No specific monitoring or review will be undertaken, beyond that which is already undertaken as part of the Department’s routine data collection.

14.2 The instrument does not include a statutory review clause because this instrument provides the appointed day upon which remaining CCGs are abolished and NHSE are under a duty to ensure ICBs are established to cover the whole of England.

15. Contact

15.1 Naveed Khan at the Department of Health and Social Care (telephone: 01132546104; email: Naveed.khan@dhsc.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Philippa Baker, Deputy Director, Legislation Programme Team, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.

15.3 Edward Argar MP, the Minister of State for Health at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.