Draft Order laid before Parliament under section 162(3) of the Health and Social Care Act 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. 000

NATIONAL HEALTH SERVICE
PUBLIC HEALTH
SOCIAL CARE

The Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010

Made - - - -	*2010*
Coming into force - -	*1st October 2010*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 161(3) and (4) and 167 of the Health and Social Care Act 2008(**1**).

A draft of this Order was laid before Parliament in accordance with section 162(3) of the Health and Social Care Act 2008 and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Social Care Act 2008 (Consequential Amendments No.2) Order 2010 and comes into force on 1st October 2010.

(2) The amendment of any provision by this Order has the same extent as the provision being amended.

Amendment of the National Assistance Act 1948

2. In section 26 of the National Assistance Act 1948 (provision of accommodation in premises maintained by voluntary organisations)(**2**), in subsection (1A)(b), for the words from "person" onwards substitute—

"person—

(**1**) 2008 c. 14.

(**2**) 1948 c. 29; section 26(1A) was inserted by the Health Services and Public Health Act 1968 (c. 46), section 44(1) and substituted by the Community Care (Residential Accommodation) Act 1992 (c. 49), section 1(1) and the Care Standards Act 2000 (c. 14) ("the 2000 Act"), Schedule 4, paragraph 1(3).

(i) in the case of a home in England, is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of a regulated activity (within the meaning of that Part) carried on in the home, or

(ii) in the case of a home in Wales, is registered under Part 2 of the Care Standards Act 2000 in respect of the home.".

Amendments of the Prison Act 1952

3. In Schedule A1 to the Prison Act 1952 (further provision about Her Majesty's Chief Inspector of Prisons)(**3**), in paragraph 4 (co-operation), omit paragraphs (f) and (g) (which relate to the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection).

Amendments of the Greater London Council (General Powers) Act 1981

4.—(1) In section 16 of the Greater London Council (General Powers) Act 1981 (exemption for certain purposes)(**4**)—

(a) in paragraph (g), omit ", or an independent hospital,"; and

(b) after paragraph (g) insert—

"(ga) used—

(i) as a hospital as defined by section 275 of the National Health Service Act 2006, or

(ii) for the provision of any of the services listed in subsection (2),

but not used as a health service hospital as defined by section 275 of the National Health Service Act 2006;".

(2) Renumber section 16 as so amended as subsection (1) of that section and after that provision insert—

"(2) The services referred to in subsection (1)(ga)(ii) are as follows—

(a) medical treatment under anaesthesia or intravenously administered sedation;

(b) dental treatment under general anaesthesia;

(c) obstetric services and, in connection with childbirth, medical services;

(d) termination of pregnancies;

(e) cosmetic surgery, other than—

(i) ear and body piercing;

(ii) tattooing;

(iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or

(iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.".

Amendments of the Mental Health Act 1983

5.—(1) The Mental Health Act 1983(**5**) is amended as follows.

(**3**) 1952 c.52; Schedule A1 was inserted by the Police and Justice Act 2006 (c. 48).
(**4**) 1981 c. 17; paragraph (g) of section 16 was substituted by the 2000 Act, Schedule 4, paragraph 29(2). Paragraph (gg) of section 16 was inserted by the Children Act 1989 (c. 41), Schedule 13, paragraph 73 and substituted by the 2000 Act, Schedule 4, paragraph 29(3).
(**5**) 1983 c. 20.

(2) In section 24 (visiting and examination of patients)(**6**), in subsection (3)(b), after "Part II of the Care Standards Act 2000" insert "or Part 1 of the Health and Social Care Act 2008".

(3) In section 34 (interpretation of Part 2)(**7**), in subsection (1), for the definition of "registered establishment" substitute—

""registered establishment" means an establishment which would not, apart from subsection (2) below, be a hospital for the purposes of this Part and which—

(a) in England, is a hospital as defined by section 275 of the National Health Service Act 2006 that is used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, which relates to the assessment or medical treatment of mental disorder and in respect of which a person is registered under Chapter 2 of that Part; and

(b) in Wales, is an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under this Act;".

(4) In section 119 (practitioners approved for Part 4 and section 118)(**8**)—

(a) in subsection (2)(a), for "establishment of any description" substitute "regulated establishment (other than a hospital)"; and

(b) for subsection (3) substitute—

"(3) In this section "regulated establishment" means—

(a) an establishment in respect of which a person is registered under Part 2 of the Care Standards Act 2000; or

(b) premises used for the carrying on of a regulated activity, within the meaning of Part 1 of the Health and Social Care Act 2008, in respect of which a person is registered under Chapter 2 of that Part.".

(5) In section 145 (interpretation)(**9**)—

(a) for the definition of "independent hospital" substitute—

""independent hospital"—

(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;"; and

(b) in the definition of "the managers" for paragraph (c) substitute—

"(c) in relation to a registered establishment—

(i) if the establishment is in England, the person or persons registered as a service provider under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the regulated activity (within the meaning of that Part) relating to the assessment or medical treatment of mental disorder that is carried out in the establishment, and

(**6**) Relevant amendments to section 24(3) were made by S.I. 2000/90, Schedule 1, paragraph 16(5); the 2000 Act, Schedule 4 paragraph 9(3); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 4, paragraph 54 and the Mental Health Act 2007 (c. 12), section 9(7) and Schedule 3, paragraph 11(3).

(**7**) The definition of "registered establishment" was inserted by the 2000 Act, Schedule 4, paragraph 9(4).

(**8**) Relevant amendments to section 119 were made by the Mental Health Act 2007 (c. 12), section 35(2)(a) and the Health and Social Care Act 2008 (c. 14), Schedule 3, paragraph 7(3).

(**9**) The definition of "independent hospital" was inserted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(b) and in the definition of "the managers" paragraph (c) was substituted by the 2000 Act, Schedule 4, paragraph 9(1), (10)(c).

(ii) if the establishment is in Wales, the person or persons registered in respect of the establishment under Part 2 of the Care Standards Act 2000;".

Amendments of the Greater London Council (General Powers) Act 1984

6. In section 10 of the Greater London Council (General Powers) Act 1984 (buildings to which Part 4 of Act applies)(**10**), in subsection (2)—

(a) in paragraph (c), omit ", or an independent hospital,";

(b) after paragraph (c) insert—

"(ca) used for the provision of any of the services listed in subsection (3);"; and

(c) after subsection (2), add—

"(3) The services referred to in paragraph (ca) of subsection (2) are as follows—

(a) medical treatment under anaesthesia or intravenously administered sedation;

(b) dental treatment under general anaesthesia;

(c) obstetric services and, in connection with childbirth, medical services;

(d) termination of pregnancies;

(e) cosmetic surgery, other than—

(i) ear and body piercing;

(ii) tattooing;

(iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or

(iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.".

Amendments of the Children Act 1989

7.—(1) The Children Act 1989(**11**) is amended as follows.

(2) In section 62 (duties of local authorities)(**12**), in subsection (6)(c), after "Care Standards Act 2000" insert "or section 20 of the Health and Social Care Act 2008".

(3) In section 105 (interpretation)(**13**), in subsection (1), for the definition of "independent hospital" substitute—

""independent hospital"—

(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000;".

Amendment of the National Health Service and Community Care Act 1990

8. In section 48 of the National Health Service and Community Care Act 1990 (inspection of premises used for provision of community care services)(**14**)—

(**10**) 1984 c. 27; in section 10(2), paragraph (c) was substituted by the 2000 Act, Schedule 4, paragraph 30(2).
(**11**) 1989 c. 41.
(**12**) Section 62(6)(c) was amended by the 2000 Act, Schedule 4, paragraph 14(1), (10)(a).
(**13**) The definition of independent hospital was inserted by the 2000 Act, Schedule 4, paragraph 14(1), (23)(a)(vi).
(**14**) 1990 c. 19; section 48(1) was amended by the 2000 Act, Schedule 4, paragraph 15.

(a) in subsection (1), for "(other than premises in respect of which any person is registered under Part II of the Care Standards Act 2000)" substitute "(other than regulated premises)"; and

(b) after subsection (1), insert—

"(1A) In subsection (1) "regulated premises" means—

(a) in relation to England, premises used for the carrying on of a regulated activity within the meaning of Part 1 of the Health and Social Care Act 2008 by a person who is registered under Chapter 2 of that Part in respect of the activity; and

(b) in relation to Wales, premises in respect of which a person is registered under Part 2 of the Care Standards Act 2000.".

Amendment of the Local Government Finance Act 1992

9. In Schedule 1 to the Local Government Finance Act 1992 (persons disregarded for purposes of discount)(**15**), in paragraph 7 (patients in homes in England and Wales), in sub-paragraph (2), for the definition of "independent hospital" substitute—

""independent hospital"—

(a) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; and

(b) in relation to Wales, has the same meaning as in the Care Standards Act 2000.".

Amendments of the Powers of Criminal Courts (Sentencing) Act 2000

10. In Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000 (requirements which may be included in supervision orders)(**16**), in paragraph 6 (requirements as to treatment for mental condition)—

(a) in sub-paragraph (2)(a)—

(i) for "an independent hospital or" substitute "a", and

(ii) after "Care Standards Act 2000" insert ", an independent hospital"; and

(b) for sub-paragraph (5) substitute—

"(5) In sub-paragraph (2)—

(a) "independent hospital"—

(i) in relation to England, means a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section, and

(ii) in relation to Wales, has the same meaning as in the Care Standards Act 2000; and

(b) "registered psychologist" means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.".

(**15**) 1992 c. 14; paragraph 7(2) of Schedule 1 was substituted by the 2000 Act, Schedule 4, paragraph 20(c).
(**16**) 2000 c. 6; paragraph 6(2)(a) of Schedule 6 was amended by the 2000 Act, Schedule 4, paragraph 28(3) and paragraph 6(5) was substituted by S.I. 2009/1182, article 4(2), Schedule 5, Part 1, paragraph 5(b).