EXPLANATORY MEMORANDUM TO

THE CARE QUALITY COMMISSION (MEMBERSHIP) REGULATIONS 2015

2015 No. 1479

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 Care Quality Commission (Membership) Regulations 2015 contain provisions relating to membership of the Care Quality Commission ("the CQC"). The Regulations update and consolidate existing Regulations relating to membership of the CQC as part of the Government's Red Tape Challenge.

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

3.1 None

4. Legislative Context

4.1 The Health and Social Care Act 2008 provides for the establishment of the CQC as the regulator of providers of health and adult social care services in England. Regulations as to membership of the CQC are made under paragraph 3 of Schedule 1 to that Act. The recently enacted Care Act 2014 has made certain amendments to the Health and Social Care Act 2008 which relate to the membership of the CQC.

In order to accommodate these changes, this instrument revokes and replaces the Care Quality Commission (Membership) Regulations 2008/2252 ("the Membership Regulations"). It also revokes two instruments which make amendments to the Membership Regulations: the Care Quality Commission (Membership) (Amendment) Regulations 2011/2547 and the Care Quality Commission (Membership) (Amendment) Regulations 2013/2157.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

The Health and Social Care Act 2008 provides for the establishment of the CQC as the regulator of providers of health and adult social care services in England.

The recently enacted Care Act 2014 made a number of amendments to the Health and Social Care Act 2008. These amendments have altered the way in which the CQC's Board is appointed and constituted. Now, instead of all members of the board being appointed by the Secretary of State, there is a distinction between executive and non-executive members. Non-executive members will be appointed to the board by the Secretary of State, whereas the CQC's Chair and non-executive members will appoint executive members. The unitary board model offers strength in combining the strategic views of the non-executives with the organisational knowledge of the executives.

Specifically, these regulations provide for:

- the minimum and maximum number of members;
- the tenure of office of non-executive members;
- disqualification for appointment to the CQC or from holding office as a non-executive member;
- cessation of disqualification from holding office;
- termination of tenure of office;
- a new mechanism whereby a non-executive member who is appointed as interim chair does not lose their status as non-executive member other than chair; and
- the suspension of non-executive members from office.

Since the Membership Regulations came into force, there have been numerous changes to the organisations, legislation or procedure referenced therein. This instrument brings all of these references up to date, such as for example to NHS bodies which have been established or which have ceased to exist in the meantime.

8. Consultation outcome

8.1 The CQC has commented on a draft of these Regulations and supports them.

9. Guidance

9.1 No guidance is necessary for the purposes of these Regulations.

10. Impact

An impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The Regulations will not apply to small businesses.

12. Monitoring and review

12.1 The Regulations do not regulate business and a review provision is therefore not required.

The Department will keep the Regulations under review following future appointment exercises to the Board, to ensure that the CQC is able to function effectively.

13. Contact

Alex Joiner at the Department of Health, tel: 0113 254 5440 or email: alex.joiner@dh.gsi.gov.uk who will be able to answer any questions about the instrument.