EXPLANATORY MEMORANDUM TO

THE HEALTH AND CARE ACT 2022 (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2025

2025 No. 1312

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care (DHSC) and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments and the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Dr Zubir Ahmed, Parliamentary Under-Secretary of State for Health Innovation and Safety at DHSC confirms that this Explanatory Memorandum meets the required standard.

2.2 Simone Bayes, Deputy Director for Neurodiversity, Disability and Learning Disability at DHSC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Lucy Sheard at DHSC, telephone: 011 3254 5471 or email: ndld.consultation@dhsc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Health and Care Act 2022 (HCA 2022) received Royal Assent on 28 April 2022. Section 1 of the HCA 2022 renamed the National Health Service Commissioning Board to NHS England. Section 19 of the HCA 2022 made provision for the abolition of clinical commissioning boards and replaced them with the establishment of integrated care boards. This statutory instrument makes amendments to the Schedule of the Down Syndrome Act 2022 (the DS Act), which covers the meaning of 'relevant authorities' in relation to the DS Act, to reflect the changes introduced by the HCA 2022.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

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5. Policy Context

What is being done and why?

5.1 The DS Act requires the Secretary of State for Health and Social Care to give guidance to relevant authorities on steps it would be appropriate for them to take to meet the needs of people with Down syndrome. Relevant authorities, as defined in the Schedule to the DS Act, must have due regard to the statutory guidance in the exercise of their relevant functions (also defined in the Schedule). The current Schedule to the DS Act does not reflect the changes outlined at 4.1. This statutory instrument will amend the Schedule to replace the reference to "the National Health Service Commissioning Board" with "NHS England" and the reference to "clinical commissioning groups" with "integrated care boards". It is a technical change and does not create any new duties.

What was the previous policy, how is this different?

5.2 The Schedule to the DS Act as currently drafted does not cover integrated care boards or NHS England. Rather it refers to the National Health Service Commissiong Board, which was the former name of NHS England, and clinical commissioning groups, who were the commissioning bodies in place at the time the DS Act was passed.

6. Legislative and Legal Context

How has the law changed?

6.1 The instrument makes technical changes to the Schedule to the DS Act to reflect current National Health Service (NHS) structures, which are required as a consequence of legislation referred to at 4.1. The instrument will ensure that the duty to provide guidance under the DS Act applies to the correct "relevant authorities" set out in the Schedule to the DS Act.

Why was this approach taken to change the law?

6.2 To replace references to clinical commissioning groups with integrated care boards and references to the National Health Service Commissioning Board with NHS England, amendment regulations are required to maintain current policy. This is a necessary technical amendment. Without this amendment, the DS Act will continue to contain outdated references to the National Health Service Commissioning Board and clinical commissioning groups and fail to reflect the establishment of integrated care boards.

7. Consultation

Summary of consultation outcome and methodology

7.1 As the consequential changes introduced by this instrument result from the introduction of the HCA 2022, and therefore this is just a technical amendment to the DS Act, no DHSC consultation has taken place specifically in relation to this instrument.

8. Applicable Guidance

8.1 There is no specific guidance for this instrument.

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Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because it relates to maintenance of existing regulatory standards

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not make any significant change to current policy.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because the instrument does not make any significant change to current policy.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause because it does not make or amend provisions that relate to business activity (including voluntary and community bodies). There are currently no specific plans to review this instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 These regulations come into force on the day after the day on which they are made. This will ensure that the duty, under the DS Act, to give guidance to relevant authorities (on steps appropriate to meet the needs of persons with Down syndrome), applies in relation to the correct authorities. As the instrument will not directly produce substantive effects until such a time as the guidance itself is issued, we do not judge it to be necessary to provide the public with further notice to prepare for this change.

12. European Convention on Human Rights

12.1 The Parliamentary Under-Secretary of State for Health Innovation and Safety has made the following statement regarding Human Rights:

"In my view the provisions of the Health and Care Act 2022 (Consequential Amendments) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").