EXPLANATORY MEMORANDUM TO

THE HEALTH AND SOCIAL CARE ACT 2008
(CONSEQUENTIAL AMENDMENTS) (WALES) ORDER 2010

2010 No. 1593

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 Health and Social Care Act 2008 (Consequential Amendments) (Wales) Order 2010 ("the Order") makes some consequential amendments to secondary legislation in relation to Wales as a result of the coming into force of the health protection provisions in Part 3 of the Health and Social Care Act ("the 2008 Act").

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

3.1 None

4. Legislative Context

4.1 The Public Health (Control of Disease) Act 1984 ("the1984 Act"), together with the regulations made under it, provides the legislative framework for health protection in England and Wales.

4.2 Part 3 of the 2008 Act (public health protection) substantially amends the 1984 Act.

Part 3 may be brought into force by Order of the Secretary of State in relation to England and by Order of the Welsh Ministers in relation to Wales (see sections 170(3) and 171 of the 2008 Act).

Supplementary, incidental or consequential provisions in consequence of, or to given full effect to, any provision of the 2008 Act may be made by the Secretary of State by Order in relation to England and Wales. Welsh Ministers do not have a commensurate Order making power. (See section 167(1) of the 2008 Act.)

4.3 Part 3 of the 2008 Act was brought into full force in England on 6 April 2010 by an Order of the Secretary of State. That Order included consequential amendments (which applied to England only) to take into account the coming into force of Part 3 of the 2008 Act. The relevant instrument is S.I. 2010/708.

4.4 Part 3 of the 2008 Act is to be brought into full force in Wales on 26 July 2010 by an Order of the Welsh Ministers That Order (the Health and Social Care Act 2008 (Commencement No.4, Transitional and Savings Provisions) (Wales) Order 2010) is subject to control by the National Assembly of Wales (see section 163 of the 2008 Act).

4.5 This Order complements the bringing into full effect of Part 3 of the 2008 Act in Wales by making the necessary consequential amendments to other (secondary) legislation. This Order - which only applies to Wales - thus comes into force on the same date as Part 3 comes into force in Wales.

5. Territorial Extent and Application

5.1 The extent of the instrument is England and Wales but the instrument only applies to Wales.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 This Order ensures that the coming into force of the amendments to the 1984 Act does not result in out of date legislative references on the statute book.

7.2 This Order updates statutory references to reflect the changes made to the health protection legislative framework in relation to Wales. The Order will come into force on 26 July 2010, the same date that Part 3 of the Health and Social Care Act 2008 is brought into force in Wales.

7.3 Similar amendments were made in relation to England by S.I. 2010/708 when Part 3 of the 2008 Act was brought into force in England on 6 April 2010.

- ***Consolidation***

7.4 This is not appropriate as the Order makes only minor consequential amendments to other legislation.

8. Consultation outcome

8.1 As the Order makes only minor consequential amendments, consultation was not required. .

9. Guidance

9.1 As the Order makes only minor consequential amendments, no guidance is needed.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument, as no impact on business, charities, voluntary bodies or the public sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Order makes only minor consequential amendments and monitoring and review is not required.

13. Contact

Janet Whybrow at the Department of Health Tel: 020 7972 4358 or email: janet.whybrow@dh.gsi.gov.uk can answer any queries regarding this instrument.