EXPLANATORY MEMORANDUM TO

THE HEALTH AND SOCIAL CARE ACT 2008 (PRIMARY DENTAL SERVICES, PRIVATE AMBULANCE SERVICES AND PRIMARY MEDICAL SERVICES) (REGULATED ACTIVITIES) (TRANSITORY AND TRANSITIONAL PROVISIONS) (AMENDMENT) ORDER 2011

2011 No. 2948

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 instrument makes transitory and transitional provisions in connection with providers of NHS primary medical services being brought into the regulatory system operated by the Care Quality Commission ("the Commission") under the terms of the Health and Social Care Act 2008 from 1st April 2013. The Order is consequential on the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2011 (2011/2711) which were made on 10th November 2011 following approval in both Houses of Parliament.

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 established, in respect of England, a new system of regulation of health and adult social care which replaced the previous system of registration under the Care Standards Act 2000. The new system is based on a requirement to register in respect of the provision of any "regulated activity", with different activities being brought into regulation at different times.

4.2 Regulations prescribing the regulated activities and imposing registration requirements, and setting the dates upon which these requirements come into force for different providers, came into force on 1st April 2010 (SI 2010/781) ("the Regulated Activities Regulations"). Those Regulations provided for the provision of NHS primary medical services to become a regulated activity from 1st April 2012.

4.3 The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2011 (SI 2011/2711) ("the 2011 Regulations") amended the Regulated Activities. Following the making of the 2011 Regulations, most providers of NHS primary medical services will now be required to register with the Commission from 1st April 2013. Providers of out of hours NHS primary medical services will be required to register with the Commission from 1st April 2012.

4.4 The Health and Social Care Act 2008 (Primary Dental Services, Private Ambulance Services and Primary Medical Services) (Regulated Activities) (Transitory and Transitional Provisions) Order 2010 put in place transitional and transitory arrangements to facilitate the application process for those providers who are required to register in respect of a regulated activity from 1st April 2012.

4.5 This Order replicates these provisions for those providers who are now required to register in respect of a regulated activity from 1st April 2013.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

7.1 The Commission took over the regulation of health and adult social care in England on 1st April 2009. It is responsible for the registration, review and inspection of certain health and adult social care services. In addition, it has a number of functions under the Mental Health Act 1983.

7.2 On 1st April 2010, NHS providers of health care were required to be registered against the full set of requirement set out in regulations. On 1st October 2010 providers of adult social care and independent sector providers of healthcare were required to become registered against the registration requirements. On 1st April 2011 providers of primary dental services and providers of private ambulance services were required to register with the Commission.

7.3 On 1st April 2012, providers of out of hours NHS primary medical services to patients that are not registered with that provider will enter registration. Finally, on 1st April 2013 providers of other NHS primary medical services will be required to register with the Commission.

7.4 This instrument extends the transitory and transitional provisions to modify the procedures for grant or refusal of registration for those providers who will enter registration under the Health and Social Care Act 2008 from April 2013. These arrangements are already in place for those providers that will enter registration in April 2012. The Order also puts in place arrangements that suspend the offence of carrying out a regulated activity without being registered in certain circumstances.

8. Consultation outcome

8.1 Not applicable.

9. Guidance

9.1 The Commission has issued guidance on the process for registration for those providers that are expected to enter registration in April 2012[1]. The Commission will issue further guidance in due course for those providers that will register in April 2013.

10. Impact

10.1 There is no impact on business, charities or the voluntary bodies.

10.2 There is no impact on the public sector from this Order. The activities in respect of which there is a requirement to register are set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and an impact assessment accompanied these Regulations. The Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2011 have made changes to the timing of registration of providers of NHS primary medical services. These regulations are accompanied by a further impact assessment. This Order simply facilitates the transfer of those providers into regulation.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The provisions of this instrument aim to achieve a smooth and effective transition into the registration system. The outcome will be subject to internal review after April 2013.

13. Contact

Mark Bennett at the Department of Health Tel: 0113 254 6501 or email: mark.bennett@dh.gsi.gov.uk can answer any queries regarding the instrument.

[1] http://www.cqc.org.uk/guidanceforprofessionals/primarymedicalservices/out-of-hoursservices.cfm