EXPLANATORY MEMORANDUM TO

THE HEALTH EDUCATION ENGLAND REGULATIONS 2014

2014 No. 3215

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 Education England Regulations 2014 makes provision for clinical representation on the boards of HEE and the Local Education and Training Boards ("the LETBs"), and to require health service providers to co-operate with relevant LETBs in the planning and provision of education and training for healthcare workers.

2.2 The Health Education England (Transfer of Staff, Property and Liabilities) Order 2014 (which is not required to be laid before Parliament) will make provision for the transfer of employees, property, rights and liabilities from the Health Education England Special Health Authority ("the Authority") to Health Education England ("HEE") on 1 April 2015.

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

3.1 None

4. Legislative Context

4.1 The Secretary of State has powers to make arrangements in relation to the education and training of healthcare workers, and a duty to secure an effective system for the planning and delivery of education and training to persons employed in connection with the health service in England. These are currently delegated to the Authority.

4.2 The Care Act 2014 makes provision for HEE to be established as Non Departmental Public Body. The Department of Health is committed to establishing a stable system architecture whereby if Special Health Authorities are established for specific purposes, they are for a time limited period of three years. Although HEE was established as a Special Health Authority before these powers came into force and is therefore not subject to the three year review provisions, it

is being brought into line with this commitment and The Care Act 2014 ("the Act") establishes HEE as a Non-Departmental Public Body. A separate Commencement Order will bring into force the provisions abolishing the Orders and Directions relating to the Authority.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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 Authority was established as part of the changes in roles and functions arising from the Health and Social Care Act 2012. It is responsible for carrying out the Secretary of State's functions to secure an effective system for education and training. At a national level, it ensures that the workforce has the right skills, behaviours and training, and is available in the right numbers, to support the delivery of excellent healthcare and health improvement. It allocates and accounts for NHS resources dedicated to education and training.

7.2 The Authority enables healthcare providers and professionals to take responsibility for planning and commissioning education and training locally through the Local Education and Training Boards (LETBs), which are healthcare provider-led committees of the Authority.

7.2 The Explanatory Memorandum to The Health Education England (Establishment and Constitution) Order 2012 set out that it was envisaged that the Authority would become a Non-Departmental Public Body.

8. Consultation outcome

8.1 The principle of establishing the Authority was first set out in the public consultation *Liberating the NHS: Developing the Healthcare Workforce*. The consultation sought views on the functions and detailed proposals of the work of the Authority. A link to the consultation document can be found on the Government website at:

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_122590

8.2 The Department published a summary of the consultation responses in August 2011 which can be found on the Government website at:

https://www.gov.uk/government/publications/liberating-the-nhs-developing-the-healthcare-workforce-a-summary-of-consultation-responses

8.3 The need for an independent body, and its functions, was tested further through the Listening Exercise on the Government's NHS modernisation plans. The NHS Future Forum endorsed in their report that HEE should be set up as an independent body to provide strategic oversight and national leadership for education and training of the health workforce.

8.4 A link to the NHS Future Forum's report on Education and Training can be found on the Government website at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213751/dh_127543.pdf

8.5 A link to the Government's Response to the NHS Future Forum Report can be found on the Government website at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/216361/dh_127719.pdf

8.6 No separate consultation was carried out on the establishment of HEE as a Non-Departmental Body.

8.7 The Authority is consulting with staff who are to be transferred to HEE.

9. Guidance

9.1 The Department published its detailed policy framework for the new education and training system, *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery* in January 2012.

9.2 A link to *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery* can be found on the Government website at:

https://www.gov.uk/government/publications/developing-the-healthcare-workforce-from-design-to-delivery

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 An Impact Assessment has not been prepared for these instruments as no impact on the private or voluntary sector is foreseen.

10.3 The Authority was established as part of the arrangements for the new system for planning and commissioning education and training of the health workforce. An Impact Assessment was carried out for the establishment of HEE as an NDPB and this can be found on the Government website at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213436/IA-8040-Health-Education-England.pdf

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Authority has put in place robust organisational and operational processes and a robust financial system and governance to allocate and account for NHS education and training resources. It has also put in place an authorisation process agreed with the Department of Health so that LETBs are assessed against robust criteria and able to operate effectively. These systems will continue under HEE.

12.2 The Department of Health will monitor and review HEE's performance through regular accountability meetings.

13. Contact

Mike Lewis at the Department of Health Tel: 0113 254691 or email: mike.lewis@dh.gsi.gov.uk can answer any queries regarding the instrument.