EXPLANATORY MEMORANDUM TO

HER MAJESTY'S CHIEF INSPECTOR OF PRISONS (SPECIFIED PUBLIC AUTHORITY) ORDER 2009

2009 No. 570

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order specifies the Care Quality Commission as a public authority for the purposes of paragraph 4(j) of the Schedule A1 to the Prison Act 1952; the effect is that the Chief Inspector is required to co-operate with the Care Quality Commission where it is appropriate to do so for the efficient and effective discharge of her functions.

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

3.1 None.

4. Legislative Context

4.1 The Care Quality Commission ("the Commission") was established under section 1 of the Health and Social Care Act 2008 ("the Act") on 1st October 2008. From the 1st April 2009, the Commission will be responsible for the regulation of certain NHS bodies who are carrying on a regulated activity and, for a transition year, for private and voluntary healthcare providers of adult and social care providers regulated under the Care Standards Act 2000. As from 1st April 2010, it is intended that regulation under the Care Standards Act 2000 will cease for service providers in England and registration under the Act will be extended to service providers carrying on other prescribed regulated activities in the field of health and social care.

4.2 This Order is made pursuant to the power set out if paragraph 4(j) of Schedule A1 to the Prison Act 1952 and adds the Care Quality Commission to the list of public authorities with whom the Chief Inspector of Prisons is required to co-operate with where it is appropriate to do so for the efficient and effective discharge of her functions. It is the first use of the enabling power.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

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 From 1st April 2009, the Commission will replace the Commission for Healthcare Audit and Inspection (known as the Healthcare Commission), the Commission for Social Care Inspection and the Mental Health Act Commission. It will be responsible for the registration, review and inspection of certain health and adult social care services in England. In addition, the functions currently performed by the Mental Health Act Commission will transfer to the Commission.

7.2 The government is committed to ensuring efficient regulation and avoiding duplication. As one of the main inspection authorities, the Care Quality Commission will need to work closely with other authorities when carrying out its functions. This Order therefore requires the Chief Inspector of Prisons to co-operate with the Care Quality Commission where appropriate to do so for the efficient and effective discharge of her functions. In doing so it replicates the existing arrangements with the Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection which are soon to be replaced by the Care Quality Commission. There is an equivalent requirement placed on the Care Quality Commission in paragraph 7 of Schedule 4 to the Health and Social Care Act 2008.

8. Consultation outcome

8.1 This change is consequential on the replacement of the existing bodies cited in the Prison Act 1952 by the Care Quality Commission and therefore no consultation is required.

9. Guidance

9.1 This change is consequential on the replacement of the existing bodies cited in the Prison Act 1952 by the Care Quality Commission and therefore no further guidance is necessary.

10. Impact

10.1 This impact on public bodies is limited to HM Chief Inspector of Prisons and the Care Quality Commission, is minimal and will be the same as the current impact on the comparable bodies covered by existing arrangements. We do not foresee any impact on private and voluntary sector bodies. Therefore an Impact Assessment has not been prepared for this instrument.

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11. Regulating small businesses

11.1 The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The provisions of this instrument aim to ensure that inspection authorities are efficient and effective in discharging their functions by co-operating with one another. The Ministry of Justice will work with the Department for Business, Enterprise and Regulatory Reform, the Department of Health and other Departments responsible for inspection authorities to monitor regulatory burdens.

13. Contact

Paul Wray at the Ministry of Justice, tel: 0207 0358850 or email: paul.wray2@justice.gsi.gov.uk, can answer any queries regarding the instrument.