EXPLANATORY MEMORANDUM TO

THE PRIVATE AND VOLUNTARY HEALTH CARE (ENGLAND) (AMENDMENT) REGULATIONS 2006

2006 No. 539

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

2 Description

This Statutory Instrument amends with effect from 1st April 2006 the frequency of inspections by the Commission for Health Care Audit and Inspection, known as the Healthcare Commission, of independent healthcare providers registered with the Commission. It does this by inserting provision in the Private and Voluntary Health Care (England) Regulations 2001 ("the 2001 Regulations") and by revoking and replacing provision in the Commission for Healthcare Audit and Inspection (Fees and Frequency of Inspections) Regulations 2004 ("the 2004 Regulations") (the intention being to put the provisions relevant to the registration and inspection of establishments and agencies in one place: the 2001 Regulations will be further amended, and the 2004 Regulations revoked, when the Healthcare Commission has a scheme of fees which can be approved).

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

None

4 Legislative Background

The Healthcare Commission has been required to inspect providers annually regardless of whether they are known to be performing well or badly. In recognition of the burden of annual inspections and the lack of proportionality, this instrument changes that to a minimum of once every five years.

5 Extent

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

The policy objective is to reduce the overall burden of inspections on registered providers, and to allow for simpler accounting arrangements for both the Commission and for registered providers.

8 Impact

A Regulatory Impact Assessment is attached as an Annex.

9 Contact

Mark Noterman at the Department of Health, Tel 020 7972 1283 or e-mail mark.noterman@dh.gsi.gov.uk, can answer any queries regarding the instrument.

Regulatory Impact Assessment.

Purpose and intended effect

Objectives

1. These changes are based on the following objectives:

- To reduce the burden of regular inspections the private and voluntary health care sectors
- Align the inspection interval with that generally applicable to the NHS

Background

2. Independent healthcare providers in England must register with the Healthcare Commission, under the Care Standards Act 2000. Currently, about 1,700 providers are registered, made up of:

- hospitals: acute (10%) and mental health (10%)
- specialist/clinic services (25%)
- private doctors (15%)
- non-surgical laser/lights operators - principally beauty salons (40%)

3. Acute hospitals typically range from around 20 beds to 200, with the average size being 46. Mental health hospitals range from less than 10 beds to more than 200, with the average size being 34 beds. Clinics/specialist units, private doctors and laser/light establishments are small businesses often employing very few staff.

4. Currently the Regulatory requirement is that the HC "arrange for premises … to be inspected a minimum of once in every 12 month period' means every registered PVH establishment regardless of risk is required to be inspected annually. In April 2005 the HC revised its private and voluntary healthcare inspection methodology to take a more proportionate risk-based approach but until a change is made to the Regulations it is still required to inspect annually.

5. This Regulation permits the Commission to inspect PVH establishments a minimum of once every five years, allowing inspections as the HC determines necessary by risk assessment of the individual establishments.

Rationale for intervention

6. The driver for action is the recognition of the burden of annual inspections and their lack of proportionality, in that poor performing providers receive the same level of inspection as well performing providers

Options

7. In this section, we set out the options considered and our preferred way forward, which we have considered against our objectives above and the terms of relevant legislation.

Frequency of Inspection

A Do nothing – retain existing annual inspection regime.
B Change inspection interval. We have identified a five-year interval as matching that used for the NHS where approximately 20% of Trusts are inspected every five years.

8. Our chosen option is B, with a recognition that the Commission's costs of registration also need to be contained and reduced. The Commission have therefore initiated a redesign of the registration process to improve their efficiency and reduce costs.

Costs and benefits

Who is affected

9. These changes affect all establishments registered under the Care Standards Act 2000, and applicants for registration. This is the same coverage as current arrangements and does not extend the regime to any other establishments or individuals.

Financial costs and benefits

10. The proposed changes do not increase or add additional costs and provide an overall benefit to all registered providers in reducing the overall frequency of inspections.

Burden of regulation

11. These changes reduce the overall burden on registered providers by reducing the required frequency of inspection from annual to five-yearly.

Economic impact

12. The changes will have a beneficial economic impact by their reduction and simplification of burden affects. The changes will not influence competition between providers, as they apply equally to all registered providers in the market. Although many registered establishments are small businesses, the changes do not differ in affect upon this sector.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

Signed: Jane Kennedy

Date: 1st March 2006

Minister of State, Department of Health.

Contact

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