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STATUTORY INSTRUMENTS

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**2010 No. 813**

**The Health and Social Care Act 2008  
(Consequential Amendments No.2) Order 2010**

**Amendments of the Sexual Offences Act 2003**

**13.**—(1) The Sexual Offences Act 2003<sup>(1)</sup> is amended as follows.

(2) In section 21 (positions of trust)<sup>(2)</sup>, in subsection (4)(b), before “an independent clinic” insert “in Wales,”.

(3) In section 22 (positions of trust: interpretation)<sup>(3)</sup>—

(a) in subsection (5)—

(i) for the definition of “hospital” substitute—

““hospital” means—

(a) a hospital as defined by section 275 of the National Health Service Act 2006, or section 206 of the National Health Service (Wales) Act 2006; or

(b) any other establishment—

(i) in England, in which any of the services listed in subsection (6) are provided; and

(ii) in Wales, which is a hospital within the meaning given by section 2(3) of the Care Standards Act 2000;”, and

(ii) in the definition of “independent clinic” omit “in relation to England and Wales;”, and

(b) after subsection (5) add—

“(6) The services referred to in paragraph (b)(i) of the definition of “hospital” are as follows—

(a) medical treatment under anaesthesia or intravenously administered sedation;

(b) dental treatment under general anaesthesia;

(c) obstetric services and, in connection with childbirth, medical services;

(d) termination of pregnancies;

(e) cosmetic surgery, other than—

(i) ear and body piercing;

(ii) tattooing;

(iii) the subcutaneous injection of a substance or substances into the skin for cosmetic purposes; or

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(1) 2003 c. 42.

(2) There are amendments to section 21 which are not relevant to this Order.

(3) Relevant amendments to section 22(5) were made by the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 2, Schedule 1, paragraphs 237 and 238 and by S.I. 2008/1779, article 7(e) and (f).

- (iv) the removal of hair roots or small blemishes on the skin by the application of heat using an electric current.”.
- (4) In section 42 (care workers: interpretation)(4)—
- (a) for subsection (3) substitute—
- “**(3)** This subsection applies if B is a patient for whom services are provided—
- (a) by a National Health Service body or an independent medical agency;
- (b) in an independent hospital; or
- (c) in Wales, in an independent clinic,
- and A has functions to perform for the body or agency or in the hospital or clinic in the course of employment which have brought A or are likely to bring A into regular face to face contact with B.”; and
- (b) in subsection (5), for the definitions of “independent clinic”, “independent hospital” and “independent medical agency” substitute—
- ““independent clinic” has the meaning given by section 2 of the Care Standards Act 2000;
- “independent hospital”—
- (a) in England, means—
- (i) a hospital as defined by section 275 of the National Health Service Act 2006 that is not a health service hospital as defined by that section; or
- (ii) any other establishment in which any of the services listed in section 22(6) are provided and which is not a health service hospital as so defined; and
- (b) in Wales, has the meaning given by section 2 of the Care Standards Act 2000;
- “independent medical agency” means an undertaking (not being an independent hospital, or in Wales an independent clinic) which consists of or includes the provision of services by medical practitioners;”;
- (c) after subsection (5) add—
- “(6) In subsection (5), in the definition of “independent medical agency”, “undertaking” includes any business or profession and—
- (a) in relation to a public or local authority, includes the exercise of any functions of that authority; and
- (b) in relation to any other body of persons, whether corporate or unincorporate, includes any of the activities of that body.”.