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STATUTORY INSTRUMENTS

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**2004 No. 759 (C. 29 )**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES  
PUBLIC HEALTH, ENGLAND  
SOCIAL CARE, ENGLAND**

**The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No.3) Order 2004**

*Made* - - - - *9th March 2004*  
*Coming into force* - - *10th March 2004*

The Secretary of State for Health, in exercise of the powers conferred upon him by section 199(1) and (3) of the Health and Social Care (Community Health and Standards) Act 2003<sup>(1)</sup>, having consulted the National Assembly for Wales in accordance with the requirement in section 199(2)(iv) of that Act, and all other powers enabling him in that behalf, hereby makes the following Order:—

**Citation, interpretation and application**

1.—(1) This Order may be cited as the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No.3) Order 2004.

(2) In this Order—

“the 1977 Act” means the National Health Service Act 1977<sup>(2)</sup>;

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003;

“excepted NHS trust” means —the Oxford Learning Disability National Health Service Trust<sup>(3)</sup>;the Calderstones National Health Service Trust<sup>(4)</sup>;the Northgate and Prudhoe National Health Service Trust<sup>(5)</sup>.

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(1) [2003 c. 43](#) (“the 2003” Act ); *see* section 199(2) for the definition of the appropriate authority in relation to Commencement Orders.  
(2) [1977 c. 49](#).  
(3) The trust was established by S.I. [1992/2574](#).  
(4) The trust was established by S.I. [1992/2469](#).  
(5) The trust was established by S.I. [1994/198](#).

(3) This Order applies to England and Wales, except for Articles 4 and 10, which apply to England only.

#### **Appointed day for provisions relating to NHS Foundation trusts**

2. 1st April 2004 is the appointed day for the coming into force of sections 1, 5 to 20, 22 to 35, and 37 to 39 of, and Schedules 1 and 3 to 5, to the 2003 Act.

#### **Appointed days for provisions relating to the Commission for Healthcare Audit and Inspection**

3.—(1) Subject to paragraph (3), 1st April 2004 is the appointed day for the coming into force of sections 48, 49, 50(1) and (5), 51(1) to (3), (5) and (6), 52(1) to (4), (6) and (7), 53 to 57, 60, 61, 64 to 68, 103, 106, 124, 126, 128, 130, 132, 134, 136 to 138, and 140 insofar as they are not already in force(6).

(2) 1st April 2005 is the appointed day for the coming into force of sections 50(2) and (3), 51(4) and 52(5) of the 2003 Act.

(3) 1st April 2006 is the appointed day for the coming into force of—

- (a) section 50(1) of the 2003 Act for the purpose of the conduct of a review and the award of a performance rating in relation to—
  - (i) an excepted NHS trust;
  - (ii) a Special Health Authority performing functions only or mainly in respect of England; or
  - (iii) a cross-border SHA(7); and
- (b) section 50(4) of the 2003 Act.

#### **Appointed days for provisions relating to the Commission for Social Care Inspection**

4.—(1) 11th March 2004 is the appointed day for the coming into force of the following provisions of the 2003 Act—

- (a) section 112;
- (b) paragraphs 16 and 27 of Schedule 9 and section 147 insofar as it relates to that paragraph of the Schedule.

(2) 1st April 2004 is the appointed day for the coming into force of the following provisions of the 2003 Act—

- (a) sections 76 to 83, 84, 87 to 91, 104, 110, 125, 127, 129, 131, 133, 135, 139 and 141, insofar as they are not already in force (8), and
- (b) paragraphs 10, 21, 24, 26 to 28 and 32 of Schedule 9, and section 147 insofar as it relates to those paragraphs of that Schedule.

#### **Appointed days for provisions relating to both the Commission for Social Care Inspection and the Commission for Healthcare Audit and Inspection**

5.—(1) 11th March 2004 is the appointed day for the coming into force of—

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(6) By virtue of section 199(4) of the 2003 Act, the power to make regulations under sections 50(6), 51(7), 52(8), (9) and (10), 53(9) and 57(5) came into force on Royal Assent.

(7) See section 148 of the 2003 Act for the definition of “cross-border SHA”.

(8) By virtue of section 199(4) of the 2003 Act, the power to make regulations under sections 79(9), 80(8), 81(7), 82(5), and 91(1) and (2) came into force on Royal Assent.

- (a) section 43 of, and Schedule 8 to, the 2003 Act, and
- (b) paragraphs 16 and 23(b) of Schedule 9 and section 147 insofar as it relates to those paragraphs of that Schedule for the purpose of making regulations under sections 31(7) and 51(1) of the Care Standards Act 2000<sup>(9)</sup>.

(2) 1st April 2004 is the appointed day for the coming into force of the following provisions of the 2003 Act—

- (a) sections 102, 108, 120 to 121, 123 and 146; and
- (b) paragraphs 2, 14, 16 to 20, 22 and 23(a), 25, 29 and 30 of Schedule 9, and section 147 insofar as it relates to those paragraphs of that Schedule.

#### **Appointed day for the abolition of CHI and NCSC**

6. 1st April 2004 is the appointed day for the coming into force of section 44 of the 2003 Act.

#### **Appointed day for functions of the CSCI and the National Assembly for Wales relating to the publishing of reports on boarding schools and colleges**

7. 1st April 2004 is the appointed day for the coming into force of section 111 of the 2003 Act.

#### **Appointed day for provisions relating to complaints about health care and social services**

8. 1st June 2004 is the appointed day for the coming into force of sections 118 and 119 of, and paragraphs 9 and 11 of Schedule 9 to, the 2003 Act and section 147 of that Act insofar as it relates to those paragraphs of that Schedule.

#### **Appointed day for provisions relating to quality and standards in NHS health care and audit**

9. 1st April 2004 is the appointed day for the coming into force of sections 45 and 46 of, and paragraph 12 of Schedule 9 to, the 2003 Act and section 147 of that Act insofar as it relates to that paragraph of that Schedule.

#### **Appointed day for provisions relating to primary medical services, general medical services and arrangements under section 28C of the 1977 Act**

10. 11th March 2004 is the appointed day for the coming into force of paragraph 26 of Schedule 11 to the 2003 Act for the purposes of making regulations under section 54(1) of the 1977 Act.

#### **Appointed day for section 189(1) of the 2003 Act**

11. 1st April 2004 is the appointed day for the coming into force of section 189(1) of the 2003 Act.

#### **Repeals relating to Foundation Trusts**

12. 1st April 2004 is the appointed day for the coming into force of the repeals of the enactments mentioned in Part 1 of Schedule 14 to the 2003 Act and for section 196 of that Act insofar as it relates to those enactments.

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(9) 2000 c. 14.

### Repeals relating to Standards

13.—(1) 1st April 2004 is the appointed day for the coming into force of the repeals and revocations in the enactments mentioned in paragraph (2) and for section 196 of the 2003 Act insofar as it relates to those enactments.

(2) In Part 2 of Schedule 14 to the 2003 Act—

- (a) the Public Records Act 1958(**10**);
- (b) the Public Bodies (Admission to Meetings) Act 1960(**11**);
- (c) the Parliamentary Commissioner Act 1967(**12**);
- (d) the House of Commons Disqualification Act 1975(**13**);
- (e) the Northern Ireland Assembly Disqualification Act 1975(**14**);
- (f) the Health Authorities Act 1995(**15**);
- (g) the Health Act 1999(**16**);
- (h) the National Assembly for Wales (Transfer of Functions) Order 1999(**17**);
- (i) the Care Standards Act 2000(**18**);
- (j) the Local Government Act 2000(**19**);
- (k) the Freedom of Information Act 2000(**20**); and
- (l) the National Health Service Reform and Health Care Professions Act 2002(**21**).

Signed by authority of the Secretary of State for Health

9th March 2004

*Warner*  
Parliamentary Under Secretary of State,  
Department of Health

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(10) 1958 c. 51.  
(11) 1960 c. 67.  
(12) 1967 c. 13.  
(13) 1975 c. 24.  
(14) 1975 c. 25.  
(15) 1979 c. 17.  
(16) 1999 c. 8.  
(17) S.I. 1999/672.  
(18) 2000 c. 14.  
(19) 2000 c. 22.  
(20) 2000 c. 36.  
(21) 2002 c. 17.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This order is the third commencement order under the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”).

Article 2 commences on 1st April 2004 certain provisions of Part 1 of the 2003 Act relating to NHS foundation trusts, including provisions relating to an Independent Regulator to regulate them.

Subject to article 3(3), article 3(1) commences on the 1st April 2004 provisions relating to the functions of the CHAI under Chapter 3 of Part 2 of the 2003 Act and under the Care Standards Act 2000(22).

Article 3(2) commences on the 1st April 2005 section 50(2) and (3), which oblige the CHAI to devise and publish criteria with respect to its annual review and award of a performance rating under section 50(1) of the 2003 Act. It also commences on that date sections 51(4) and 52(5), which oblige the CHAI to take into account any health care standards published by the Secretary of State and the Assembly when the CHAI carries out reviews under sections 51 and 52 of that Act.

Article 3(3) commences on the 1st April 2006 section 50(1) of the 2003 Act, for the purpose of the conduct of an annual review and the award of a performance rating in relation to certain NHS trusts that specialise in the provision of services to persons with learning disabilities (“excepted NHS trusts”) and in relation to standards published by the Secretary of State under section 46 of the 2003 Act when the CHAI exercises its functions under section 50 of that Act.

Article 4(1) commences from the 11th March 2004 provisions which provide a power for the CSCI and the Secretary of State to make arrangements for the CSCI to conduct inspections of secure training centres in England, and brings into force regulation making powers under the Care Standards Act 2000(23).

Article 4(2) commences from the 1st April 2004 provisions relating to the functions of the CSCI under Chapter 5 of Part 2 of the 2003 Act and under the Care Standards Act 2000(24), and provisions in Chapters 8 and 10 of the 2003 Act.

Article 5(1) commences from the 11th March 2004 provisions enabling the Secretary of State to make a scheme for the transfer of property, rights and liabilities from the National Care Standards Commission, the Audit Commission and the Crown to the CSCI and the CHAI.

Article 5(2) commences from the 1st April 2004 provisions relating to both the CHAI and the CSCI under the Care Standards Act 2000(25) and under Chapter 10 of Part 2 of the 2003 Act.

Article 6 commences on the 1st April 2004 section 111 of the Act, which imposes obligations under the Children Act 1989(26) upon the CSCI and the National Assembly for Wales.

Article 7 commences on the 1st April 2004 section 44 of the 2003 Act, which abolishes the Commission for Health Improvement and the National Care Standards Commission.

Article 8 commences on the 1st June 2004 provisions that relate to the handling of complaints that are made under regulations under Chapter 9 of Part 2 of the 2003 Act.

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(22) 2000 c. 14.

(23) 2000 c. 14.

(24) 2000 c. 14.

(25) 2000 c. 14.

(26) 1989 c. 41.

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Article 9 commences on the 1st April 2004 provisions that concern the duty of quality on NHS bodies and the publication by the Secretary of State of standards relating to health care that is provided by or for NHS bodies, and also that amend the Audit Commission Act 1998 consequent on the functions given to the CHAI, the CSCI and the National Assembly for Wales under Part 2 of the 2003 Act.

Article 10 commences paragraph 26 of Schedule 11 to the 2003 Act on the 11th March 2004 for the purpose of making regulations.

Article 11 commences an amendment to section 7 of the Protection of Children Act 1999<sup>(27)</sup> on the 1st April 2004.

Article 12 commences repeals relating to NHS foundation trusts in Part 1 of Schedule 14 to the 2003 Act on the 1st April 2004.

Article 13 commences repeals and revocations relating to standards in Part 2 of Schedule 14 to the 2003 Act on the 1st April 2004.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The provisions of the Health and Social Care (Community Health and Standards) Act 2003 listed in the table below have been brought into force by a commencement order made before the date of this Order. Except where indicated the provision has been commenced in relation to England and Wales.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Sections 2 to 4	1.1.2004	<a href="#">2003/3346</a>
Section 36	1.1.2004	<a href="#">2003/3346</a>
Section 40	1.1.2004	<a href="#">2003/3346</a>
Section 41	8.1.2004	<a href="#">2003/3346</a>
Section 42 as to England	1.1.2004	<a href="#">2003/3346</a>
Section 147 as to England (partially)	1.1.2004	<a href="#">2003/3346</a>
Section 147 (partially)	8.1.2004	<a href="#">2003/3346</a>
Section 148	1.1.2004	<a href="#">2003/3346</a>
Section 174 as to England (partially)	1.3.2004	<a href="#">2004/288</a>
Section 174 as to England (partially)	1.4.2004	<a href="#">2004/288</a>
Section 175(1) as to England (partially)	3.2.2004	<a href="#">2004/288</a>
Section 175(1)	1.3.2004	<a href="#">2004/288</a>
Section 175 as to England insofar not already in force	1.4.2004	<a href="#">2004/288</a>
Section 176 as to England	3.2.2004	<a href="#">2004/288</a>

<sup>(27)</sup> [1999 c. 14.](#)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Section 177(1) and (2) as to England	3.2.2004	2004/288
Section 177(2) as to England insofar as is not already in force	1.3.2004	2004/288
Section 177(3) to (11) as to England	1.3.2004	2004/288
Section 177(12) as to England (partially)	1.4.2004	2004/288
Section 178 as to England	1.4.2004	2004/288
Section 179(1) as to England (partially)	3.2.2004	2004/288
Section 179(2) as to England (partially)	3.2.2004	2004/288
Section 180 as to England (partially)	1.3.2004	2004/288
Section 184 as to England (partially)	3.2.2004	2004/288
Section 184 as to England (partially)	1.3.2004	2004/288
Section 184 as to England (partially)	1.4.2004	2004/288
Section 196 as to England (partially)	1.3.2004	2004/288
Section 196 as to England (partially)	1.4.2004	2004/288
Schedule 2	1.1.2004	2003/3346
Schedule 6	8.1.2004	2003/3346
Schedule 7 as to England	1.1.2004	2003/3346
Schedule 9 paragraphs 1, 3, 5 to 8 and 31 as to England (partially)	1.1.2004	2003/3346
Schedule 9 paragraph 1, 3, 5 to 8, 13 and 31 (partially)	8.1.2004	2003/3346
Schedule 11		
Paragraph 1 as to England	1.4.2004	2004/288
Paragraph 2 as to England (partially)	1.4.2004	2004/288
Paragraphs 3(2)(a) and (3) to (5) and 3(1) as to England (partially)	1.4.2004	2004/288

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Paragraph 4 to 6 as to England	1.4.2004	2004/288
Paragraph 7 as to England (partially)	3.2.2004	2004/288
Paragraph 7 as to England (partially)	1.3.2004	2004/288
Paragraph 7 as to England (partially)	1.4.2004	2004/288
Paragraph 9 as to England	1.4.2004	2004/288
Paragraphs 12 and 13 as to England	1.4.2004	2004/288
Paragraphs 14 to 17 as to England	1.3.2004	2004/288
Paragraph 20 as to England (partially)	1.4.2004	2004/288
Paragraph 21(3) as to England (partially)	1.4.2004	2004/288
Paragraph 22 as to England (partially)	1.4.2004	2004/288
Paragraph 23 as to England (partially)	3.2.2004	2004/288
Paragraph 23 as to England (partially)	1.4.2004	2004/288
Paragraph 24(a) as to England	1.4.2004	2004/288
Paragraph 25 to 27 as to England	1.4.2004	2004/288
Paragraph 36(a) as to England	1.4.2004	2004/288
Paragraph 37 as to England	1.4.2004	2004/288
Paragraph 38 as to England	3.2.2004	2004/288
Paragraph 39 as to England (partially)	3.2.2004	2004/288
Paragraphs 42 to 44 as to England	1.4.2004	2004/288
Paragraph 45 as to England (partially)	1.4.2004	2004/288
Paragraph 46 as to England (partially)	1.4.2004	2004/288
Paragraphs 47 to 49 as to England	1.4.2004	2004/288
Paragraphs 51 and 52 as to England	1.4.2004	2004/288



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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Paragraph 55 as to England	1.4.2004	<a href="#">2004/288</a>
Paragraph 53 as to England (partially)	1.4.2004	<a href="#">2004/288</a>
Paragraph 56 to 59 as to England	1.4.2004	<a href="#">2004/288</a>
Paragraph 60 as to England (partially)	1.4.2004	<a href="#">2004/288</a>
Paragraphs 62 and 63 as to England	1.4.2004	<a href="#">2004/288</a>
Paragraphs 65 and 67(a) as to England	1.4.2004	<a href="#">2004/288</a>
Paragraph 69 as to England (partially)	1.4.2004	<a href="#">2004/288</a>
Paragraph 70 to 74 as to England	1.4.2004	<a href="#">2004/288</a>
Schedule 14 as to England (partially)	1.4.2004	<a href="#">2004/288</a>