
WELSH STATUTORY INSTRUMENTS

2010 No. 1547 (W.145) (C.84)

PUBLIC HEALTH, WALES

The Health and Social Care Act 2008 (Commencement No. 4, Transitional and Savings Provisions) (Wales) Order 2010

<i>Made</i>	- - - -	<i>8 June 2010</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 June 2010</i>
<i>Coming into force</i>	- -	<i>26 July 2010</i>

The Welsh Ministers, in exercise of the powers conferred by sections 161(3) and (4), 167(2) and 170(3) of the Health and Social Care Act 2008⁽¹⁾ make the following Order:

Title, application and interpretation

1.—(1) The title of this Order is the Health and Social Care Act 2008 (Commencement No. 4, Transitional and Savings Provisions) (Wales) Order 2010.

(2) This Order applies in relation to Wales.

(3) In this Order—

- (a) “the 1984 Act” (“*Deddf 1984*”) means the Public Health (Control of Disease) Act 1984⁽²⁾; and
- (b) “the 2008 Act” (“*Deddf 2008*”) means the Health and Social Care Act 2008.

Appointed day

2. 26 July 2010 is the appointed day for the coming into force of the following provisions of the 2008 Act—

- (a) section 129, in so far as not already in force;
- (b) section 130(1), except in so far as it relates to sections 13 to 15 and 76 of the 1984 Act ceasing to have effect;
- (c) section 130(2);
- (d) section 166, in so far as it relates to the provisions of Part 3 of Schedule 15 commenced by paragraph (f);

(1) 2008 c. 14. See section 171(2) of that Act for the definition of “appropriate authority”, which is relevant to the power being exercised.
(2) 1984 c. 22.

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- (e) Schedule 11; and
- (f) Part 3 of Schedule 15, except in so far as it relates to the repeal of sections 13 to 15 and 76 of the 1984 Act.

Transitional and savings provisions

- 3. The transitional and savings provisions set out in Schedule 1 have effect.

8 June 2010

Elin Jones
Minister for Health and Social Services, one of
the Welsh Ministers

SCHEDULE 1

Article 3

Transitional and savings provisions

Interpretation

1. In this Schedule—

“the Notification Regulations” (“*y Rheoliadau Hysbysu*”) means the Health Protection (Notification) (Wales) Regulations 2010⁽³⁾; and

“the Local Authority Powers Regulations” (“*y Rheoliadau Pwerau Awdurdodau Lleol*”) means the Health Protection (Local Authority Powers) (Wales) Regulations 2010⁽⁴⁾.

Section 9 of the 1984 Act

2. Section 9 of the 1984 Act (vessels in inland or coastal waters) continues in force for the purposes of section 13 of the 1984 Act (regulations for control of certain diseases) (notwithstanding the repeal of section 9 by the 2008 Act).

Section 11 of the 1984 Act: duty of registered medical practitioners

3.—(1) Where—

- (a) a duty on a registered medical practitioner under section 11 of the 1984 Act (cases of notifiable disease and food poisoning to be reported) has arisen before 26 July 2010 but has not been discharged before that date; and
- (b) the duty is in connection with a notifiable disease or syndrome that is listed in Schedule 1 to the Notification Regulations (Notifiable Diseases and Syndromes),

the registered medical practitioner must comply with regulation 2 of the Notification Regulations (duty to notify suspected disease, infection or contamination in patients).

(2) For the purpose of sub-paragraph (1), the registered medical practitioner is to be treated as having formed a suspicion under regulation 2(1) of the Notification Regulations on 26 July 2010.

Section 11 of the 1984 Act: duty of proper officers

4.—(1) Where—

- (a) a proper officer of a local authority has received a certificate in accordance with section 11(1) of the 1984 Act (cases of notifiable disease and food poisoning to be reported);
- (b) the proper officer has not discharged the duty to send copies of that certificate to other specified parties under section 11(3) of that Act⁽⁵⁾ before 26 July 2010; and
- (c) the certificate relates to a notifiable disease or syndrome that is listed in Schedule 1 to the Notification Regulations (Notifiable Diseases and Syndromes),

the certificate is to be treated as a notification sent under regulation 2 of the Notification Regulations (duty to notify suspected disease, infection or contamination in patients).

(2) For the purposes of sub-paragraph (1), the proper officer is to be treated as having received the notification on 26 July 2010.

⁽³⁾ S.I. 2010/1546 (W.144).

⁽⁴⁾ S.I. 2010/1545 (W.143).

⁽⁵⁾ Before its repeal, section 11(3) was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedule 2, Part 2, paragraphs 50(1) and (2).

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Section 20 of the 1984 Act

5. Where—

- (a) a proper officer of a local authority has made a request under section 20 of the 1984 Act⁽⁶⁾ (stopping of work to prevent spread of disease); and
- (b) that request has not been complied with before 26 July 2010 nor has it expired or been withdrawn,

the request is to be treated as a request made under regulation 8 of the Local Authority Powers Regulations (requests for co-operation for health protection purposes).

Section 21 of the 1984 Act

6. Where—

- (a) a notice has been issued to the person having care of a child under section 21 of the 1984 Act (exclusion from school of child liable to convey notifiable disease); and
- (b) a certificate has not been issued by a proper officer under that section in respect of that notice before 26 July 2010,

for the purposes of the notice, section 21 of the 1984 Act continues in force (notwithstanding its repeal by the 2008 Act).

Section 22 of the 1984 Act

7. Where—

- (a) a proper officer of a local authority has requested a principal of a school to furnish a list of names and addresses of pupils under section 22 of the 1984 Act⁽⁷⁾ (list of day pupils at school having case of notifiable disease);
- (b) the time for complying with the request has not expired; and
- (c) the request has not been complied with before 26 July 2010,

the request is to be treated as a request made under regulation 3 of the Local Authority Powers Regulations (requirement to provide details of children attending school).

Section 31 of the 1984 Act

8. Where—

- (a) the local authority has given notice to an occupier under section 31 of the 1984 Act (disinfection of premises); and
- (b) the steps set out by the local authority in its notice have not been taken by the local authority or the occupier before 26 July 2010,

for the purposes of the notice, section 31 of the 1984 Act continues in force (notwithstanding its repeal by the 2008 Act).

(6) Before its repeal, section 20 was amended by the Food Safety Act 1990 (c. 16), Schedule 3, paragraph 28.

(7) Before its repeal, section 22 was amended by virtue of a Royal Proclamation dated 31 December 1984 abolishing the halfpenny.

Sections 35 to 38 and 40 of the 1984 Act

9. Where, immediately before 26 July 2010, an order made by a justice of the peace under one or more of sections 35 to 38 and 40 of the 1984 Act⁽⁸⁾ (which relate to justice of the peace orders) is in force, the order—

- (a) is to be treated as having been made under section 45G (power to order health measures in relation to persons) and, where the order has been combined with a warrant, section 45K (Part 2A orders: supplementary) of the 1984 Act;
- (b) will cease to be in force after a period of 14 days beginning with 26 July 2010, or such shorter period as the order may specify; and
- (c) cannot be extended, but this does not prevent a justice of the peace from making a new order under sections 45G or 45K of the 1984 Act as the case may be.

Section 42 of the 1984 Act

10. Where, immediately before 26 July 2010, a magistrates' court order under section 42 of the 1984 Act (closure of common lodging house on account of notifiable disease) is in force, the order—

- (a) is to be treated as having been made under section 45I of the 1984 Act (power to order health measures in relation to premises);
- (b) will cease to be in force after a period of 14 days beginning with 26 July 2010 (or such shorter period as the order may specify); and
- (c) cannot be extended, but this does not prevent a justice of the peace from making a new order under section 45I of the 1984 Act.

Section 43 of the 1984 Act

11. Where—

- (a) a proper officer of a local authority or a registered medical practitioner has certified under section 43 of the 1984 Act (person dying in hospital with notifiable disease) that a body should not be removed from hospital except for the purpose of being taken directly to a mortuary or forthwith buried or cremated; and
- (b) the body subject to the certification remains in that hospital immediately before 26 July 2010,

for the purposes of the certification and the body, section 43 of the 1984 Act continues in force (notwithstanding its repeal by the 2008 Act).

Section 74 of the 1984 Act

12. Any definition in section 74 of the 1984 Act⁽⁹⁾ (interpretation) which is used in—

- (a) sections 13 to 15 or 76 of the 1984 Act; or
- (b) any provision of the 1984 Act that continues in force for specified purposes by virtue of paragraphs 2 to 11 of this Schedule,

continues in force for the purposes of construing those sections and provisions (notwithstanding their repeal, and the repeal of section 74 of the 1984 Act, by the 2008 Act).

(8) Before its repeal, section 37 was amended by: the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 26(2), Schedule 10; the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 4, paragraphs 60 and 62; S.I. 2000/90, Schedule 1, paragraph 17(1) and (4)(b); S.I. 2002/2469, Schedule 1, Part 1, paragraph (11) (1) and (4)(a) and (b); and S.I. 2007/961, the Schedule, paragraph 14(1) and (6)(a) and (b).

(9) The definition of “NHS Trust” in section 74, before its repeal, was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 78 and 79. Other amendments to section 74 are not relevant here.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 26 July 2010 certain provisions of the Health and Social Care Act 2008 (“the Act”) which amend the Public Health (Control of Disease) Act 1984. These include revised and expanded powers to make health protection regulations, both with regard to the spread of infection or contamination from international travel, and with regard to domestic provision for protecting against, or responding to, infection or contamination. There are new powers for justices of the peace to make orders requiring health protection measures to be taken in relation to persons, things or premises. Justices of the peace will also be able to direct any action that might be appropriate to give effect to their orders. There are also modified rights of entry and enforcement arrangements relating to health protection measures. In addition, there are a number of transitional and savings provisions, primarily in relation to the notice requirements under pre-existing legislation.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

Note as to earlier commencement orders

The following provisions of the Act have been brought into force in relation to Wales by commencement orders made by the Welsh Ministers before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.140 (partially)	21 May 2010	2010/1457 (W.130)
s.166 (partially)	21 May 2010	2010/1457 (W.130)
Part 2 of Schedule 12	21 May 2010	2010/1457 (W.130)
Part 4 of Schedule 15 (partially)	21 May 2010	2010/1457 (W.130)
s.148	19 April 2010	2010/989 (W.98)
s.147	6 April 2009	2009/631 (W.57)
s.166 (so far as it relates to Part 5 of Schedule 15)	6 April 2009	2009/631 (W.57)
Schedule 13	6 April 2009	2009/631 (W.57)
Part 5 of Schedule 15	6 April 2009	2009/631 (W.57)