

1990 No. 1329 (C.37)

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service and Community Care Act
1990 (Commencement No. 1) Order 1990**

Made - - - - 2nd July 1990

In exercise of powers conferred by section 67(2) and (3) of the National Health Service and Community Care Act 1990(a) and of all other powers enabling me in that behalf, I hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the National Health Service and Community Care Act 1990 (Commencement No. 1) Order 1990.

(2) In this Order—

(a) "the Act" means the National Health Service and Community Care Act 1990, and

(b) "the 1977 Act" means the National Health Service Act 1977(b).

Days Appointed

2.—(1) 5th July 1990 is the day appointed for the coming into force of each provision of the Act specified in column 1 of Schedule 1 to this Order.

(2) 25th July 1990 is the day appointed for the coming into force of subsections (4)(a) and (5) of section 1 of the Act (members of Health Authorities to cease to be members) so far as those subsections have effect for the purposes of Regional Health Authorities.

(3) 26th July 1990 is the day appointed for the coming into force of—

(a) section 1(1)(a) (Regional and District Health Authorities) and section 59(1) (Parliamentary disqualification) of the Act as they have effect in relation to Regional Health Authorities,

(b) paragraph 1 of Schedule 1 to the Act and section 1(2) of the Act so far as it relates to that paragraph and to paragraph 1 of Schedule 5 to the 1977 Act, and

(c) paragraphs 6, 8 and 9 of Schedule 1 to the Act and paragraphs 7 and 10 of that Schedule so far as they have effect for the purposes of Regional Health Authorities and section 1(3) of the Act so far as it relates to each of those paragraphs.

(4) 16th September 1990 is the day appointed for the coming into force of—

(a) section 1(4)(a) and (5) of the Act so far as not previously in force,

(a) 1990 c.19
(b) 1977 c.49.

- (b) section 1(4)(b) of the Act (members of certain special health authorities to cease to be members), and
 - (c) section 2(5) of the Act (members of Family Practitioner Committees to cease to be members).
- (5) 17th September 1990 is the day appointed
- (a) for the coming into force of each provision of the Act specified in column 1 of Schedule 2 to this Order, and
 - (b) for the coming into force of sections 1, 2 and 59(1) of and Schedule 1 to the Act so far as not previously in force.
- (6) 1st October 1990 is the day appointed for the coming into force of
- (a) section 20 of the Act (extension of functions etc. of Audit Commission to cover the health service) so far as not previously in force,
 - (b) Schedule 4 to the Act (amendments of Part III of the Local Government Finance Act 1982(a)), so far as not previously in force, and
 - (c) section 66(2) of and Schedule 10 to the Act (repeals) so far as they relate to section 98(1)(b) and (3) of the 1977 Act and the Local Government and Housing Act 1989(b).
- (7) 1st January 1991 is the day appointed for the coming into force of
- (a) Section 12(4) of the Act (recognition by Secretary of State of certain local committees),
 - (b) section 22 of the Act (the Medical Practices Committee),
 - (c) section 23 of the Act (distribution of general medical services), and
 - (d) section 66(2) of and Schedule 10 to the Act so far as they relate to section 33(7) of the 1977 Act.
- (8) 1st April 1991 is the day appointed for the coming into force of each provision of the Act specified in column 1 of Schedule 3 to this Order and of section 26 of the Act (interpretation of Part I) so far as not previously in force.

Transitional provision

3. (1) Where

- (a) prior to 17th September 1990, any application or question has, pursuant to regulations made under paragraph (d) or (e) of section 42(3) of the 1977 Act as then in force, been referred for determination by the body prescribed under that paragraph (d); and
- (b) that application or question has not been determined by that body before that date,

those paragraphs shall, in relation to the determination of that application or question after that date, have effect as if section 12(3) of the Act had not come into force.

(2) Where, prior to 1st January 1991 the Medical Practices Committee has refused an application under section 30 of the 1977 Act or has granted an application subject to conditions excluding the provision of general medical services by the applicant in a part or parts of the Family Health Services Authority's locality, sections 33(5), (7) and (8) and 34 of the 1977 Act shall, in relation to that refusal or grant, have effect as if section 23(4) to (7) of the Act had not come into force.

2nd July 1990

K. Clarke
One of Her Majesty's Principal Secretaries of State

(a) 1982 c.32.
(b) 1989 c.42.

SCHEDULE 1

Article 2(1)

PROVISIONS OF THE ACT COMING INTO FORCE ON 5TH JULY 1990

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 1— subsection (1)(c)	Regional and District Health Authorities
In section 2—subsection (3)(b)	Family Health Services Authorities
Section 5	NHS trusts
Section 6	Transfer of staff to NHS trusts
Section 7	Supplementary provisions as to transfer of staff
Section 8	Transfer of property, rights and liabilities to NHS trusts
Section 9	Originating capital debt of, and other financial provisions relating to NHS trusts
Section 10	Financial obligations of NHS trusts
Section 11	Trust-funds and trustees for NHS trusts
In section 20—subsection (1) so far as it relates to paragraph 4 of Schedule 4 and subsections (4), (5), (6) and (7)	Extension of functions etc. of Audit Commission to cover the health service
In section 26—subsection (1) and in subsection (2) paragraphs (a), (c), (d) so far as it relates to the definition of "National Health Service trust", (e), (g) and (i)	Interpretation of Part I of the Act
In section 59—subsection (2)	Parliamentary disqualification
Section 64	Financial provisions
Section 65	Regulations, orders and directions
Section 66(1) so far as it relates to the following provisions of Schedule 9— paragraphs 2, 5(4), 6, 7, 8, 9, 13, 17, 18(1)(b) and (3) to (13), 20, 21(a) and (b), 22, 23, 24(1), (2), (3)(a) and (b), (4), (5) and (7) to (9), 26, 27, 29, 30(1)(a) and (2), 31, 32, 33, 35, 36 and 37.	Minor and consequential amendments
Section 66(2) and Schedule 10 so far as they relate to the following enactments—sections 8(5) and 10(7) of the 1977 Act	Repeals
Schedule 2	National Health Service trusts
Schedule 3	Financial provisions relating to NHS trusts
In Schedule 4—paragraph 4	Amendment of section 14 of the Local Government Finance Act 1982

SCHEDULE 2

Article 2(5)

PROVISIONS OF THE ACT COMING INTO FORCE ON 17TH SEPTEMBER 1990

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 3 subsections (3) and (4)	Exercise of functions by health authorities etc.
In section 12—subsections (1), (2), (3) and (5)	Functions of Family Health Services Authorities
Section 14	Recognition of fund-holding practices of doctors
Section 21	Schemes for meeting losses and liabilities etc.
Section 24	Limitations on right to be included on list of dental practitioners
In section 26 subsection (2)(b) and (f)	Interpretation of Part I of the Act
Section 61	Health service bodies: taxation
Section 62	Clinical Standards Advisory Group
Section 66(1) so far as it relates to paragraphs 18(1)(a) and (c) and (2), 24(3)(c) and 34 of Schedule 9	Minor and consequential amendments
Section 66(2) and Schedule 10 so far as they relate to the following enactments	Repeals
Sections 8(1) to (3), 11(1), 12(a), 13(1), 14, 16, 18(3), 41(b), 55, 91(3)(b), 97(6) and 99(1)(b) of and paragraph 8 of Schedule 5 to the 1977 Act	
Section 22 of and Schedule 1 to the Health Services Act 1980(a)	
The Public Health (Control of Disease) Act 1984(b)	

(a) 1980 c. 53.

(b) 1984 c. 22.

SCHEDULE 3

Article 2(8)

PROVISIONS OF THE ACT COMING INTO FORCE ON 1ST APRIL 1991

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>		
In section 3—subsections (1), (2) and (5) to (8)	Primary and other functions of health authorities etc.		
Section 4	NHS contracts		
Section 13	Financial duties in relation to Family Health Services Authorities.		
Section 15	Payments to recognised fund-holding practices		
Section 16	Renunciation and removal of recognition as a fund-holding practice and withholding of funds		
Section 17	Transfer of functions relating to recognised fund-holding practices		
Section 18	Indicative amounts for doctors' practices		
Section 19	Amendments relating to funding of health authorities etc.		
Section 25	Transfer to DHA of certain functions relating to private patients		
Section 60	Removal of Crown immunities		
Section 63	Repeal of remaining provisions of Health Services Act 1976		
Section 66(2) and Schedule 10 so far as they relate to the following enactments	Repeals		
The Nursing Homes Registration (Scotland) Act 1938(a)			
The Fire Precautions Act 1971(b)			
The Health Services Act 1976(c)			
Paragraph 15(2) of Schedule 5 to the 1977 Act			
Sections 2(9) and 10(9) of the National Health Service (Scotland) Act 1978(d)			
The Employment Protection (Consolidation) Act 1978(e)			
Sections 12 to 15 of and Schedules 2, 3 and 4 to the Health Services Act 1980(f)			
The Registered Homes Act 1984(g)			
The National Health Service (Amendment) Act 1986(h)			
Schedule 8	Provisions arising out of removal of Crown immunities from health service bodies		
(a) 1938 c. 73 1 and 2 Geo. 6	(b) 1971 c. 40.	(c) 1976 c. 83.	(d) 1978 c. 29.
(e) 1978 c. 44.	(f) 1980 c. 53.	(g) 1984 c. 23.	(h) 1986 c. 66.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force Part I (the National Health Service: England and Wales) and Part V (Miscellaneous and General) of the National Health Service and Community Care Act 1990. The provisions are brought into force in stages on 5th, 25th and 26th July, 16th and 17th September and 1st October 1990 and 1st January and 1st April 1991.

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