

2001 No. 3294 (C. 107)

**NATIONAL HEALTH SERVICE, ENGLAND
NATIONAL ASSISTANCE, ENGLAND**

**The Health and Social Care Act 2001
(Commencement No. 3) (England) Order 2001**

Made - - - - - 30th September 2001

The Secretary of State for Health, in exercise of the powers conferred on him by sections 64(6) and (8) and 70(2) of the Health and Social Care Act 2001(a) hereby makes the following Order:

Citation, interpretation and extent

1.—(1) This Order may be cited as the Health and Social Care Act 2001 (Commencement No. 3) (England) Order 2001.

(2) In this Order—

“the 1948 Act” means the National Assistance Act 1948(b);

“the 1977 Act” means the National Health Service Act 1977(c);

“the 2001 Act” means the Health and Social Care Act 2001; and

“the standard rate” has the same meaning as in section 22(2) of the 1948 Act(d).

(3) This Order extends to England only.

Appointed day in respect of section 6 of the 2001 Act

2. 1st October 2001 is the day appointed for the coming into force of section 6 of the 2001 Act.

Appointed day in respect of section 49 of the 2001 Act

3.—(1) 1st October 2001 is the day appointed for the coming into force of section 49 of the 2001 Act in so far as it relates to any person—

(a) who is provided with accommodation by a local authority under section 21(1)(e) of the 1948 Act (duties of local authorities to provide accommodation), and

(a) 2001 c. 15.

(b) 1948 c. 29.

(c) 1977 c. 49.

(d) Section 22(2) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”).

(e) Section 21(1) was amended by the Local Government Act 1972, section 195(6), Schedule 23, paragraph 2(1); the Housing (Homeless Persons) Act 1977, section 20(4); the Children Act 1989, section 108(5), Schedule 13, paragraph 11 and the 1990 Act, section 42(1).

- (b) who, if the authority were also to provide the nursing care in connection with that accommodation, would be liable to make a payment under section 22(3)(a) (charges to be made for accommodation) or section 26(3)(b) (provision of accommodation in premises maintained by voluntary organisations) of the 1948 Act either at the standard rate or at a lower rate which is not less than the standard rate minus £110.

(2) Notwithstanding that a person ceases to satisfy sub-paragraph (b) of paragraph (1) above, section 49 of the 2001 Act shall continue to apply to him.

Appointed days in respect of the Family Health Services Appeal Authority

4.—(1) Subject to paragraph (2), the day appointed for the coming into force of each provision of the 2001 Act specified in column 1 of Part I of the Schedule to this Order is—

- (a) for the purpose of constituting the Family Health Services Appeal Authority and for making rules or regulations in respect of it, 1st October 2001, and
- (b) for all other purposes, 1st December 2001.

(2) Until section 16 of the 2001 Act is commenced fully in relation to England, each provision of that Act specified in column 1 of Part II of the Schedule to this Order shall take effect subject to the amendment specified in respect of it in column 2 of that Part.

Signed by authority of the Secretary of State for Health.

30th September 2001

John Hutton
Minister of State,
Department of Health

(a) Section 22(3) was amended by the 1990 Act, section 44(4).
(b) Section 26(3) was amended by the 1990 Act, section 42(4).

SCHEDULE

Article 4(1)

**PROVISIONS RELATING TO THE CONSTITUTING OF THE FAMILY HEALTH SERVICES
APPEAL AUTHORITY**

PART I

**PROVISIONS OF THE 2001 ACT COMING INTO FORCE PARTLY ON 1st OCTOBER AND
FULLY ON 1st DECEMBER 2001**

<i>Column 1</i> <i>Provision of the 2001 Act</i>	<i>Column 2</i> <i>Subject matter</i>
Section 27	The Family Health Services Appeal Authority
Section 67(1) in so far as it relates to the provisions of Schedule 5 specified below	Minor and consequential amendments of enactments
paragraph 3	The House of Commons Disqualification Act 1975 (c. 24)
paragraph 5(10)(b) and (13)(a), (b) and (d)	The National Health Service Act 1977 (c. 49)
paragraph 10	The Tribunals and Inquiries Act 1992 (c. 53).

PART II

Article 4(2)

**PROVISIONS OF THE 2001 ACT AMENDED UNTIL SECTION 16 OF THE 2001 ACT IS
COMMENCED FULLY IN RELATION TO ENGLAND**

<i>Column 1</i> <i>Provision of the 2001 Act</i>	<i>Column 2</i> <i>Amendment</i>
Section 27(2) (which amends section 102 of the 1977 Act (allowances and remuneration for members of certain bodies))	In section 27(2)— (a) for “for” in the second place where it occurs, substitute “after” and (b) for “substituted “the FHSAA”” substitute “added “and the FHSAA””.
Section 27(5)(b) (which amends paragraph 9(a) of Schedule 1 to the National Health Service (Primary Care) Act 1997 (preferential treatment on transferring to medical lists))	In section 27(5)(b)— (a) for “for” substitute “after”, (b) after “section 46” insert “where representations were made under paragraph 3 before 1st December 2001”, (c) for “substituted” substitute “added”, and (d) after “section 49S” insert “where representations are made under that paragraph on or after that date”.
Schedule 5— paragraph 5(10)(b) (which amends section 100 of the 1977 Act (payments of expenses of certain bodies))	In Schedule 5— in paragraph 5(10)(b)— (a) for “for” substitute “after”, (b) for “substitute” substitute “insert”, and (c) for ““(d)”” substitute ““(dd)””;
paragraph 10 (which amends paragraph 33(b) of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals))	in paragraph 10— (a) for “substitute” substitute “add” and (b) for ““(b)”” substitute ““(bb)””.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the third Commencement Order made under the Health and Social Care Act 2001 (“the 2001 Act”).

Article 2 brings into force in England, on 1st October 2001, section 6 of the 2001 Act.

Article 3(1) brings into force in England, on 1st October 2001, section 49 of the 2001 Act in relation to persons who are provided with accommodation under section 21 of the National Assistance Act 1948 and who would be liable to make a payment for that accommodation and the nursing care in connection with that accommodation (under section 22 or 26 of that Act) at the standard rate or at a lower rate which is not less than the standard rate minus £110. Article 3(2) provides that section 49 continues to apply to a person even if he ceases to satisfy article 3(1)(b). Section 49 of the 2001 Act excludes nursing care by a registered nurse (as defined in that section) from the services which can be provided by local authorities pursuant to enactments relating to community care services.

Article 4(1) brings into force in England, on 1st October 2001 for certain purposes, and on 1st December 2001 for all other purposes, provisions of the Act which establish, and relate to, the Family Health Services Appeal Authority (the FHSAA).

Article 4(2) makes transitional provision in respect of amendments which would otherwise be made to the National Health Service Act 1977 (c. 49) (“the 1977 Act”) by section 27(2) of, and paragraph 5(10)(b) and 13(a), (b) and (d) of Schedule 5 to, the 2001 Act, to the National Health Service (Primary Care) Act 2001 (c. 46) by section 27(5)(b) of the 2001 Act and to the Tribunals and Inquiries Act 1992 (c. 53) by paragraph 10 of Schedule 5 to the 2001 Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Health and Social Services Act 2001 have been brought into force in relation to England by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
section 3	1 August 2001	2001/2804
section 4	1 August 2001	2001/2804
section 13	1 August 2001	2001/2804
section 46 partially	1 August 2001	2001/2804
section 47	1 August 2001	2001/2804
section 48	1 August 2001	2001/2804
Schedule 4	1 August 2001	2001/2804
section 53	9 September 2001	2001/3167
section 54 (partially)	9 September 2001	2001/3167
section 55 (partially)	9 September 2001	2001/3167

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