

2006 No. 2603 (C. 88)

PUBLIC HEALTH

HEALTH CARE AND ASSOCIATED PROFESSIONS

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

SOCIAL CARE

**The Health Act 2006 (Commencement No. 1 and Transitional
Provisions) Order 2006**

Made - - - - *22nd September 2006*

The Secretary of State for Health makes this Order in exercise of the powers conferred by sections 79(3) and 83(3), (7) and (8) of the Health Act 2006(a).

In accordance with section 83(3)(b) of that Act she has consulted the National Assembly for Wales.

Citation, interpretation and application

1.—(1) This Order may be cited as the Health Act 2006 (Commencement No. 1 and Transitional Provisions) Order 2006.

(2) In this Order—

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

“the Act” means the Health Act 2006;

“Welsh NHS bodies” has the meaning given by paragraph 2 of the Schedule 12B to the 1977 Act to be inserted by Schedule 3 to the Act.

Appointed day for provisions relating to prevention and control of health care associated infections

2. 1st October 2006 is the day appointed for the coming into force of sections 14 to 16 of the Act.

(a) 2006 c.28..

(b) By section 83(3) of the Act, the power to appoint a day on which Part 5 of the Act comes into force is to be exercised by the Secretary of State after consulting the National Assembly for Wales.

(c) 1977 c.49.

Appointed day for a provision relating to medicines and pharmacies

3. 1st October 2006 is the day appointed for the coming into force of section 33 of the Act.

Appointed day for provisions relating to the Appointments Commission

4.—(1) In this article, a reference to a section or Schedule by number alone means the section or Schedule so numbered in the Act.

(2) The day appointed for the coming into force of sections 58 to 62 and 70, and Schedules 5 and 6—

- (a) for the purpose of conferring power to make a direction, is 28th September 2006;
- (b) for all other purposes, is 1st October 2006.

(3) The day appointed for the coming into force of section 71—

- (a) for the purpose of defining any expression relevant to the exercise of the power to make a direction, is 28th September 2006;
- (b) for all other purposes, and so far as it is not already in force(a), is 1st October 2006.

(4) 1st October 2006 is the day appointed for the coming into force of the following provisions so far as they are not already in force—

- (a) sections 57 and 65;
- (b) Schedule 4.

(5) 1st October 2006 is the day appointed for the coming into force of the following provisions—

- (a) sections 63, 64 and 66 to 69;
- (b) Schedule 7;
- (c) in Schedule 8—
 - (i) paragraphs 1 to 5, 26 to 28, 31 and 35;
 - (ii) in paragraph 45, sub-paragraph (3) and paragraph (1) so far as it relates to that sub-paragraph;
 - (iii) paragraphs 47 and 48;
 - (iv) paragraphs 51 and 52, and paragraph 49 so far as it relates to those paragraphs;
 - (v) paragraphs 56 to 61;
- (d) section 80(1) so far as it relates to the provisions specified in sub-paragraph (c);
- (e) section 80(2) and Schedule 9, so far as they relate to the repeal or revocation of the enactments specified in the Schedule to this Order.

Appointed day for provisions relating to audit

5. 1st October 2006 is the day appointed for the coming into force of the following provisions in the Act, except so far as relating to Welsh NHS bodies—

- (a) section 56 and Schedule 3;
- (b) paragraphs 24(a), 39 to 42 and 44 of Schedule 8, and section 80(1) in so far as it relates to those provisions; and
- (c) in Schedule 9, the following repeals and revocations—
 - (i) paragraphs (1)(g) and 1C of Schedule 2 to the Audit Commission Act 1998(b);

(a) So far as a provision of the Health Act 2006 (other than section 36(2)) did not come into force on the passing of that Act by virtue of section 83(1)(a) to (d), it came into force on the passing of the Act by virtue of section 83(1)(e) so far as it confers power to make an order or regulations, or defines any expression relevant to the exercise of any such power.

(b) 1998 c.18.

- (ii) Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003(a);
 - (iii) Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2004(b);
 - (iv) Regulatory Reform (National Health Service Charitable and Non-Charitable Trusts Accounts and Audit) Order 2005(c);
 - (v) Special Health Authorities (Audit) Order 2006(d);
- (d) section 80(2) in so far as it relates to the repeals or revocations specified in paragraph (c).

Transitional provisions relating to audit

6. (1) Notwithstanding the substitution, except so far as relating to Welsh NHS bodies, of section 98 of the 1977 Act by section 56 of the Act—

- (a) section 98 of the 1977 Act;
- (b) the following provisions of the Audit Commission Act 1998(e)—
 - (i) section 5(1)(a);
 - (ii) the definition of “health service body” in section 53(1);
 - (iii) paragraphs 1(e) and (g), 1A and 1C of Schedule 2;
- (c) section 144(2) of the Government of Wales Act 1998(f);
- (d) section 14 of the Government Resources and Accounts Act 2000(g); and
- (e) article 2(1) of the Special Health Authorities (Audit) Order 2006,

as in force on 30th September 2006 shall apply as regards accounts kept by the bodies listed in section 98(1) in relation to the financial year ending 31st March 2007 (accordingly, the arrangements set out in the new Schedule 12B of the 1977 Act shall apply in relation to each subsequent financial year) and as regards outstanding matters relating to earlier financial years.

(2) Notwithstanding paragraph (1)(a), section 98(4) of the 1977 Act (as it continues in effect by virtue of paragraph (1)(a)) shall not apply in relation to any Special Health Authority in relation to the financial year ending 31st March 2007

(3) Paragraphs (1) and (2) have no effect in relation to Welsh NHS bodies.

Signed by authority of the Secretary of State for Health

Norman Warner
Minister of State,
Department of Health

22nd September 2006

(a) S.I. 2003/1324.
 (b) S.I. 2004/1714.
 (c) S.I. 2005/1074.
 (d) S.I. 2006/960.
 (e) 1998 c.18.
 (f) 1998 c.38.
 (g) 2000 c.20.

SCHEDULE

Article 4(5)(e)

REPEALS AND REVOCATIONS, SPECIFIED IN SCHEDULE 9 TO THE ACT, THAT ARE TO COME INTO FORCE ON 1ST OCTOBER 2006

Pharmacy Act 1954, section 15(3) and (4) and Schedule 1, paragraph 3A;

Medical Act 1983, Schedule 1, paragraph 4ZA;

Dentists Act 1984, Schedule 1, paragraph 2A;

Opticians Act 1989, Schedule 1, paragraph 2A;

Osteopaths Act 1993, the Schedule, paragraph 11A;

Chiropractors Act 1994, Schedule 1, paragraph 11A;

National Health Service Appointments Commission (Establishment and Constitution) Order 2001;

Nursing and Midwifery Order 2001, Schedule 1, paragraph 15A;

Health Professions Order 2001, Schedule 1, paragraph 16A;

National Health Service Reform and Health Care Professions Act 2002, Schedule 6, paragraph 6
and Schedule 7, paragraph 5;

The provisions of the Health and Social Care (Community Health and Standards) Act 2003,
specified in Schedule 9 to the Act, with the exception of Schedule 11, paragraph 33;

General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003,
Schedule 2, paragraph 4;

Health Protection Agency Act 2004, Schedule 1, paragraph 2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Health Act 2006 (“the Act”).

Article 2 brings into force the provisions of sections 14 to 16 of the Act. These provisions amend Chapter 3 of Part 2 of the Health and Social Care (Community Health and Standards) Act 2003 and relate to a Code of Practice for the prevention and control of health care associated infections.

Article 3 brings into force an amendment to Schedule 3 to the Health Act 1999 so as to remove the limitation that orders under section 60 of that Act may not make amendments to the Medicines Act 1968 except in connection with the regulation of pharmacists.

Article 4 brings into force the provisions of the Act relating to the Appointments Commission, which is established by section 57(1) of the Act. The National Health Service Appointments Commission is abolished by section 57(4) of the Act. The provisions are brought into force on 1st October 2006, except for certain provisions which are brought partially into force on 28th September 2006 for the purpose of conferring power to make directions to the Commission, and wholly into force on 1st October 2006.

Article 5 brings into force, except so far as relating to Welsh NHS bodies, section 56 of, and Schedule 3 and related provisions in Schedule 8 and 9 to, the Act on 1st October 2006. Section 56 substitutes section 98 of the National Health Service Act 1977 (“the 1977 Act”) with a new section which refers to the new Schedule 12B. Schedule 12B sets out the new arrangements for accounts and audits of certain health service bodies.

Article 6 contains a transitional provision (which does not affect Welsh NHS bodies) in relation, essentially, to section 56 of the Act. Paragraph (1)(a) provides that the arrangements in force as of 30th September 2006 under section 98 of the 1977 Act, and related measures, continue to apply to the bodies listed under section 98(1) in relation to the financial year 31st March 2007, despite the substitution of section 98 of the 1977 Act with Schedule 12B. Thus, the arrangements under new Schedule 12B to the 1977 Act apply in relation to the financial year beginning 1st April 2007 and to subsequent financial years. However, paragraph (2) disapplies section 98(4) of the 1977 Act (as in effect because of paragraph (1)(a)) as regards all Special Health Authorities for the financial year ending 31st March 2007.

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