
WELSH STATUTORY INSTRUMENTS

2002 No. 1475 (W.147) (C.41)

NATIONAL HEALTH SERVICE, WALES

**The Health and Social Care Act 2001
(Commencement No. 2) (Wales) Order 2002**

Made - - - - *30th May 2002*

The National Assembly for Wales, in exercise of powers conferred on it by sections 64(6), 66 and 70(2) of the Health and Social Care Act 2001⁽¹⁾ 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 2) (Wales) Order 2002.
- (2) In this Order, “the Act” means the Health and Social Care Act 2001.
- (3) This Order extends to Wales only.

Appointed day

- 2.—(1) The day appointed for the coming into force of the provisions of the Act specified in Part 1 of the Schedule to this Order is 1st July 2002.
- (2) The day appointed for the coming into force of the provisions of the Act specified in Part 2 of the Schedule to this Order is 1st December 2002.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽²⁾

30th May 2002

D. Elis-Thomas
The Presiding Officer of the Assembly

(1) 2001 c. 15.
(2) 1998 c. 38

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SCHEDULE

Article 2

Part 1

PROVISIONS OF THE ACT COMING INTO FORCE ON 1st July 2002

<i>Provisions of the Act</i>	<i>Subject Matter</i>
Section 3(1) and (2)	Supplementary payments to NHS trusts
Section 5	Income Generation
Section 19	Enhanced criminal record certificates
Section 20	Medical, dental, ophthalmic and pharmaceutical etc. lists
Section 21	Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists
Section 22	Dental corporations
Section 23	Declaration of financial interests, gifts, etc.
Section 24	Supplementary lists
Section 25	Suspension and disqualification of practitioners
Section 26	PMS and PDS lists
Section 28	Pilot Schemes
Section 29	Making pilot schemes
Section 30	Designation of priority neighbourhoods or premises
Section 31	Reviews of pilot schemes
Section 32	Variation and termination of pilot schemes
Section 33	NHS Contracts
Section 34	Funding of preparatory work
Section 35	Charges, recovery of payments and penalties
Section 36	Effect of the National Health Services Act 1977
Section 37	Premises from which piloted schemes may be provided
Section 38	Control of entry regulations
Section 39	Assessing pilot schemes
Section 41	Corresponding provision and application of enactments
Section 42	Dispensing of NHS prescriptions and provision of pharmaceutical services
Section 43	Remote provision of pharmaceutical etc services

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the Health and Social Care Act 2001 in relation to Wales.

The Order provides for the commencement of provisions which—

- (a) enable the National Assembly to make payments direct to NHS trusts outside the existing arrangements for funding such bodies (section 3(1) and (2));
- (b) enable the National Assembly and other NHS bodies exercising income generation powers under section 7 of the Health and Medicines Act 1988 to form, invest in and otherwise make financial provision in relation to companies (section 5);
- (c) confer a new statutory duty on NHS trusts in Wales to make arrangements with the aim of involving patients and the public in the planning and decision making process of that body, in so far as they affect the operation of the health services for which it responsible (section 11);
- (d) amend the Police Act 1997 to enable health authorities to have access to enhanced criminal record certificates under section 115 of that Act when verifying information supplied by a practitioner applying to be included on any of the list maintained by health authorities of practitioners who undertake to provide general or personal medical or dental services or ophthalmic services or pharmaceutical services (section 19);
- (e) provide, by way of amendment to sections 29A and 29B of the National Health Service Act 1977 (“the 1977 Act”), new powers for health authorities to refuse practitioner admission to the appropriate list on the grounds of unsuitability, prejudice to efficiency or because of previous fraudulent behaviour (section 20);
- (f) by the insertion of new section 43ZA into the 1977 Act, give the National Assembly powers to make regulations providing for a person’s inclusion in a General Medical Services, a General Dental Services; a General Ophthalmic Services or Pharmaceutical Services list to be subject to conditions (relating to the prevention of prejudice to the efficiency of the service or fraudulent acts) determined by the health authority which may vary the conditions or impose new ones. Regulations will also provide for the consequences of a practitioner failing to comply with a condition which could include removal from the list. The regulations also prevent the practitioner from withdrawing from the list whilst the health authority are investigating in order to see whether there are grounds for removal, or after the health authority have made the decision to remove the practitioner but before it has given effect to the decision. The regulations must also provide for the giving of notice of any allegations made against a practitioner, for the health authority to hear the practitioner’s case at a hearing before a decision is made and the health authority’s decision to be communicated to the practitioner and for the practitioner to have a right of appeal to the Family Health Services Appeals Authority. Regulations may also provide for notification to prescribed persons by the health authority of its decision (section 21);
- (g) by amendments to sections 35 and 36 of the 1977 Act, will enable health authorities to make arrangements with dental corporations to provide General Dental Services as well as with individual dental practitioners (section 22);

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- (h) introduce new arrangements requiring practitioners providing family health services to declare their financial interests and any gifts or benefits they receive. Section 29 of the 1977 Act will be amended to provide that regulations may require practitioners providing general medical services to declare any financial interests, gifts over a prescribed value or other benefits that they receive in connection with the provision of NHS services. Similar regulatory powers will apply to persons or organisations providing general dental services, general Ophthalmic services and pharmaceutical services (section 23);
- (i) insert a new section 43D in to the 1977 Act which will extend the existing health authority list system to all people who assist in the provision of family health services. The National Assembly will have power to make regulations providing for the preparation and publication by health authorities of lists, to be known as supplementary lists, covering practitioners (locums, deputies or employees) assisting in the provision of General Medical Services, General Dental Services, General ophthalmic Services and Pharmaceutical Services (section 24);
- (j) insert new sections 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q and 49R in to the 1977 Act which will make provision for health authorities to suspend and remove practitioners from the relevant principal family health services list on grounds of efficiency, fraud or unsuitability. In cases of efficiency or fraud, a health authority will have power to contingently remove a practitioner from a principal list and will also be able to take action against a body corporate if the individuals in control of the body corporate themselves meet the criteria for fraud or inefficiency. The new sections will also provide for the procedural requirements for removal or suspension and for a right of appeal to the Family Health Services Appeals Authority which may make a decision to impose a national disqualification on the practitioner (section 35);
- (k) will extend health authorities' list systems under a new section 28DA of the 1977 Act to include those practitioners who may perform personal medical services and personal dental services (section 26);
- (l) introduce new arrangements to be known as Local Pharmaceutical Services under which community pharmacy and related services may be provided on a piloted basis. A pilot scheme may consist of one or more arrangements between a health authority and any other person or persons including individual pharmacists, retail pharmacy businesses, dispensing appliance contractors and NHS trusts (section 28). Provisions for the establishment of pilot schemes include the approval of the National Assembly (Schedule 2). The National Assembly may designate neighbourhoods, particular premises or descriptions of premises for the purposes of LPS pilots schemes. Pilot Schemes may be reviewed varied or terminated (sections 29, 30, 31 and 32). Persons providing pilot schemes may apply to become a health service body; consequently contracts entered into between a health authority and the health service body will be NHS contracts within the meaning of the National Health Service and Community Care Act 1990 rather than legal contracts (section 33). Financial support is available for the developments of pilot schemes (section 34). Prescription charges under LPS will be the same as those applicable to services provided under Part 2 of the National Health Service Act 1977. Regulations may be made about the making and recovery of charges for LPS (section 35). All provisions of the 1977 Act will apply to the services provided under piloted schemes (section 36). Piloted schemes may not be provided from the same premises as pharmaceutical services provided under 1977 Act are provided (section 37) and provision of piloted services may be taken into account by a health authority when considering applications from persons wishing to join the health authority's list of persons who have undertaken to provide pharmaceutical services under Part 2 of the 1977 Act (section 38). The National Assembly will assess pilot schemes. LPS Schemes cannot be established until pilot schemes have been assessed

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and the National Assembly is satisfied that pilot schemes have shown that the continued provision of LPS would be in the interests of the health service (section 39).

- (m) introduce revised arrangements for the arrangements for pharmaceutical services provided under Part 2 of the 1977 Act. Health Authorities are required to make arrangements for the supply of persons who are in their area, of drugs, medicines and listed appliances to those persons for whom they have been prescribed by medical practitioners under the national health service or by dental practitioners. Provision is made for certain items prescribed by certain other categories of prescriber also to be dispensed as part of NHS pharmaceutical services (section 42).
- (n) enable the National Assembly to direct health authorities authorising or requiring them to arrange for the provision of services to any person, whether or not in their area and to arrange for the provision of these services by remote means; the National Assembly is also empowered to make regulations in respect of remote prescribing (section 43).
- (o) commence minor consequential amendments and repeals

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The provisions of the Act referred to in the table below have been brought into force in relation to Wales by Commencement Orders made before the date of this Order.

Provision	Date of Commencement	S.I. No.
Section 49	3 rd December 2001	S.I.2001/3807 (W.315)(C.124)
Section 50	19 th December 2001	S.I.2001/3807 (W.315)(C.124)

Various provisions of the Act have been brought into force in relation to England by the following Statutory Instruments: [S.I. 2001/2804 \(C.95\)](#); [S.I.2001/3167 \(C101\)](#); [S.I. 2001/3294 \(C.107\)](#); [S.I. 2001/3619 \(C. 117 \)](#); [S.I. 2001/3738 \(C.121\)](#)[S.I. 2001/3752 C.C.122\)](#) and [S.I. 2001/4149 \(C.133\)](#).