

1990 No. 2218 (C. 56)

SOCIAL SERVICES, ENGLAND AND WALES

**The National Health Service and Community Care Act
1990 (Commencement No. 4 and Transitional Provision)
Order 1990**

Made - - - -

7th November 1990

The Secretary of State for Health, in exercise of the 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 him in that behalf hereby makes 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. 4 and Transitional Provision) Order 1990.

(2) In this Order –

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

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

Day appointed

2. 1st April 1991 is the day appointed for the coming into force of each provision of the Act specified in Column 1. of the Schedule to this Order.

Transitional provision

3. Section 54 of the 1948 Act (inquiries for the purposes of that Act) shall continue to apply so far as the purposes of that Act relate to persons under the age of eighteen until section 81 of the Children Act 1989(c) comes into force.

7th November 1990

William Waldegrave
Secretary of State for Health

(a) 1990 c.19.

(b) 1948 c.29.

(c) 1989 c.41. At the time of the making of this Order, no day had been appointed for the coming into force of section 81.

SCHEDULE

Article 2

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>
Section 42(6)	Amendment of section 30(1) of the 1948 Act under which a local authority may employ certain voluntary organisations as their agents for the provision of welfare services for disabled persons
Section 42(7)	Amendment of section 45(3) of the Health Services and Public Health Act 1968(a) under which a local authority may employ certain voluntary organisations as their agents for promoting the welfare of old people
Section 46	Local authority plans for community care services
Section 48	Inspection of premises used for provision of community care services
Section 50	Amendment of the Local Authority Social Services Act 1970(b) inserting new sections 7A to E (directions by Secretary of State as to exercise of social services functions, complaints procedure, inquiries, default powers of Secretary of State as respects social services functions of local authorities and grants to local authorities in respect of certain social services functions and payments to voluntary organisations providing certain services)
Section 66(1) and Schedule 9 so far as they relate to the following provisions of that Schedule – paragraphs 5(6), (7) and (8)	Cessation of effect of subsections (2) and (3) of section 35 of the 1948 Act (duty of local authorities to exercise functions under Part III of that Act) in accordance with regulations, section 36 of that Act (default powers of Minister), and section 54 of that Act (inquiries for the purposes of that Act) so far as it relates to England and Wales
paragraph 11(b) and (c) (so far as sub-paragraph (c) relates to section 46 of the 1990 Act)	Amendment of Schedule 1 to the Local Authority Social Services Act 1970 (enactments conferring social services functions assigned to social services committee)
paragraph 12	Amendment of section 2(1) of the Chronically Sick and Disabled Persons Act 1970(c) (provision of welfare services) so far as it relates to England and Wales
Section 66(2) and Schedule 10 so far as they relate to the following enactments – Sections 35(2) and (3), 36 and 54 (so far as it relates to England and Wales) of the 1948 Act, section 45(5) of the Health Services and Public Health Act 1968, section 2(1) of the Chronically Sick and Disabled Persons Act 1970 (so far as it relates to England and Wales)	Repeals

(a) 1968 c.46.

(b) 1970 c.42.

(c) 1970 c.44.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 1st April 1991 the provisions of Part III (Community Care: England and Wales) and Part V (Miscellaneous and General) of the National Health Service and Community Care Act 1990 specified in the Schedule to this Order and makes a transitional provision in respect of inquiries under the National Assistance Act 1948.

NOTES AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

This Order has been preceded by three earlier Orders entitled respectively The National Health Service and Community Care Act 1990 (Commencement No. 1) Order 1990 (S.I. 1990/1329) commencing provisions of Parts I and V of the Act relating to England and Wales; The National Health Service and Community Care Act 1990 (Commencement No. 2) (Scotland) Order 1990 (S.I. 1990/1520) commencing certain provisions of Parts II and V of, and Schedules 6, 9 and 10 to, the Act relating to Scotland and The National Health Service and Community Care Act 1990 (Commencement No. 3 and Transitional Provisions) (Scotland) Order 1990 (S.I. 1990/1793) commencing certain provisions of Parts II and V of, and Schedules 5, 9 and 10 to, the Act relating to Scotland.

These Orders made respectively on 2nd and 18th July 1990 and 28th August 1990, brought into force at various dates, both before and after the date of this Order, provisions of Parts I, II and V of, and of Schedules 1 to 6 and 8 to 10 to, the National Health Service and Community Care Act 1990.

The following Tables of this Note set out in chronological order the provisions of the Act, the subject matter of the provisions, the dates of coming into force and the number of the Order bringing the provisions into force, as provided in those earlier Commencement Orders. In the Tables references to "the 1977 Act" are to the National Health Service Act 1977(a), and to "the 1978 Act" are to the National Health Service (Scotland) Act 1978(b).

(a) 1977 c.49.
(b) 1978 c. 29.

TABLE A

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 5TH JULY 1990
BY S.I. 1990/1329**

<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) and Schedule 9 so far as relating to the following provisions of that Schedule:– 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 relating 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(a)

(a) 1982 c.32.

TABLE B
PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 24TH JULY 1990
BY S.I. 1990/1520

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In section 29, sub-section (3)(a), (b) and (c) and (4)	Local health councils and University Liaison Committees
Section 31	National Health Service trusts
Section 32	Further provisions relating to NHS trusts
Section 33	Trust property of NHS trusts
Section 66(1) so far as it relates to the following provisions of Schedule 9:- paragraphs 1, 3, 4, 10(12) and (14)(b), 14, 19(4), (5), (7)(a)(ii), (9) to (14), (16) to (19), (21), (22)(b), (c) (so far as it relates to the definition of "National Health Service trust") and (d) and (24), 21(c) and 28	Minor and consequential amendments
Schedule 6	Schedules about NHS trusts to be inserted after Schedule 7 to the 1978 Act.

TABLE C

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON VARIOUS DATES FROM
25TH JULY TO 16TH SEPTEMBER 1990 BY S.I. 1990/1329**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date brought into force</i>
In section 1 – subsections (4)(a) and (5)	Members of health authorities to cease to be members (so far as relating to Regional Health Authorities)	25th July 1990
In section 1 – subsection (1)(a)	Regional and District Health Authorities (so far as relating to Regional Health Authorities)	26th July 1990
In section 1 – subsection (2)	Membership of health authorities (so far as relating to paragraph 1 of Schedule 1 and to paragraph 1 of Schedule 5 to the 1977 Act)	26th July 1990
In section 1 – subsection (3)	Supplementary provisions as to health authorities (so far as relating to paragraphs 6, 8 and 9 of Schedule 1 to the Act and paragraphs 7 and 10 of that Schedule so far as relating to Regional Health Authorities)	26th July 1990
In section 59 – subsection 1	Parliamentary disqualification (so far as relating to Regional Health Authorities)	26th July 1990
In Schedule 1 – paragraph 1	Health authorities and Family Health Services Authorities	
paragraphs 6, 8 and 9, and, so far as relating to Regional Health Authorities, paragraphs 7 and 10	Membership of Regional Health Authorities	26th July 1990
	Amendments of Part III of Schedule 5 to the 1977 Act	26th July 1990
In section 1 – subsections (4) and (5) so far as not already in force	Membership of health authorities	16th September 1990
In section 2 – subsection (5)	Members of Family Practitioner Committees ceasing to be members	16th September 1990

TABLE D

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 17TH SEPTEMBER 1990
BY S.I. 1990/1329**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
Section 1	Regional and District Health Authorities
Section 2	Family Health Services Authorities
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
In section 59 – subsection (1)	Parliamentary disqualification
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
Schedule 1	Health authorities and Family Health Services Authorities
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.

TABLE E

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 17TH SEPTEMBER 1990
BY S.I. 1990/1793**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
In Section 27 – subsection (3)	Health Boards, the Common Services Agency and state hospitals
Section 28	Special Health Boards
Section 29 so far as not already in force	Abolition of Scottish Health Service Planning Council and amendments in relation to local consultation committees
Section 34 in relation to the provisions of section 87A and of section 87B(1) (so far as section 87B(1) provides for the meaning of “recognised fund – holding practice” and “allotted sum”), to be inserted into the 1978 Act	Fund-holding practices – recognition
In section 36, subsection (2) to (8)	Accounts and audit of NHS trust and fund-holding practices
Section 37	Relationship of Health Boards and medical practitioners (references to ‘relevant Health Board’)
Section 40	Limitations on the right to be included in the list of dental practitioners
Section 41	Schemes for meeting losses and liabilities etc. of certain health service bodies
Section 66(1) so far as it relates to the provisions of Schedule 9 to the Act referred to in this Table	Minor and consequential amendments
Section 66(2) so far as it relates to repeal of those enactments specified in Schedule 10 to the Act referred to in this Table	Repeals
Schedule 5	Amendments in relation to Health Boards, the Common Services Agency and state hospitals
Schedule 9 so far as it relates to provisions of paragraph 19:– sub-paragraphs (1) to (3), (6), (7) (so far as not already in force), (8), (15), (20) and (22)(a) and (e)	Minor and consequential amendments
Schedule 10 so far as it relates to the following enactments – In the 1978 Act, sections 5 and 6, 10(4), 85(1)(a), 108(1), and Schedule 3 In the Health and Medicines Act 1988(a) Schedule 2, paragraph 11	Repeals

(a) 1988 c. 49.

TABLE F

**PROVISIONS OF THE ACT BROUGHT INTO FORCE ON 1ST OCTOBER 1990
BY S.I. 1990/1329**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>
Section 20	Extension of functions of the Audit Commission
Section 66(2) and Schedule 10	Repeals
Sections 98(1)(b) and (3) of the 1977 Act and the Local Government and Housing Act 1989(a)	
Schedule 4	Amendments of Part III of the Local Government Finance Act 1982

(a) 1989 c.42.

TABLE G

PROVISIONS OF THE ACT COMING INTO FORCE ON 1ST JANUARY 1991
AND 1ST APRIL 1991 BY VIRTUE OF S.I. 1990/1329

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date coming into Force</i>
In section 12 – subsection 4	Recognition of certain local committees	1st January 1991
Section 22	Medical Practices Committee	1st January 1991
Section 23	Distribution of general medical services	1st January 1991
Section 66(2) and Schedule 10 so far as relating to section 33(7) of the 1977 Act	Repeals	1st January 1991
In section 3 – subsections (1), (2) and (5) to (8)	Primary and other functions of health authorities etc.	1st April 1991
Section 4	NHS contracts	
Section 13	Financial duties in relation to Family Health Services Authorities	1st April 1991
Section 15	Payments to recognised fund-holding practices	1st April 1991
Section 16	Renunciation and removal of recognition as a fund-holding practice and withholding of funds	1st April 1991
Section 17	Transfer of functions relating to recognised fund-holding practices	1st April 1991
Section 18	Indicative amounts for doctors' practices	1st April 1991
Section 19	Amendments relating to funding of health authorities etc.	1st April 1991
Section 25	Transfer to DHA of certain functions relating to private patients	1st April 1991
Section 26	Interpretation of Part I, so far as not already in force	1st April 1991
Section 60	Removal of Crown immunities	1st April 1991
Section 63	Repeal of remaining provisions of Health Services Act 1976(a)	1st April 1991
Section 66 (2) and Schedule 10 so far as they relate to the following enactments –	Repeals	1st April 1991
The Nursing Homes Registration (Scotland) Act 1938(b)		1st April 1991
The Fire Precautions Act 1971(c)		1st April 1991
The Health Services Act 1976		1st April 1991
Paragraph 15(2) of Schedule 5 to the 1977 Act		1st April 1991
Sections 2(9) and 10(9) of the 1978 Act		1st April 1991
The Employment Protection (Consolidation) Act 1978(d)		1st April 1991

(a) 1976 c. 83

(b) 1938 c. 73 (1 and 2 Geo. 6).

(c) 1971 c. 40.

(d) 1978 c. 44

Table G – *continued*

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date coming into force</i>
Sections 12 to 15 of and Schedules 2, 3 and 4 to the Health Services Act 1980		1st April 1991
The Registered Homes Act 1984(a)		1st April 1991
The National Health Service (Amendment) Act 1986(b)		1st April 1991
Schedule 8	Provisions arising out of removal of Crown immunities from health service bodies	1st April 1991

(a) 1984 c. 23. (b) 1986 c. 66.

TABLE H

PROVISIONS OF THE ACT COMING INTO FORCE ON VARIOUS DATES FROM
1ST JANUARY 1991 TO 1ST APRIL 1992 BY VIRTUE OF S.I. 1990/1793

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject Matter</i>	<i>Column 3</i> <i>Date coming into force</i>
Section 38	Scottish Medical Practices Committee	1st January 1991
Section 39 (subject to transitional provision)	Distribution of general medical services	1st January 1991
Section 66(2) and Schedule 10 so far as they relate to section 23(7) of the 1978 Act	Repeals	1st January 1991
Section 27(1) and (2) (in relation to members of a Health Board or the management committee of the Common Services Agency)	Health Boards, the Common Services Agency and state hospitals	31st March 1991
Section 30	NHS contracts	1st April 1991
Section 34, so far as not already in force	Fund-holding practices of general medical practitioners	1st April 1991
Section 66(1) and Schedule 9 so far as they relate to paragraph 19(22)(c) (so far as not already in force) and (23)	Minor and consequential amendments	1st April 1991
Section 66(2) and Schedule 19 so far as they relate to sections 7(2) and 57(3) of the 1978 Act	Repeals	1st April 1991
Section 27(1) and (2) (so far as not already in force)	Health Boards, the Common Services Agency and state hospitals	31st March 1992
Section 35	Indicative amounts for doctors, practices	1st April 1992