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STATUTORY INSTRUMENTS

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**1996 No. 971**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The Health Authorities Act 1995 (Amendment of Transitional Provisions and Modification of References) Order 1996**

<i>Made</i>	- - - -	<i>29th March 1996</i>
<i>Laid before Parliament</i>		<i>29th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health, in exercise of the powers conferred on him by section 126(4) and (5) of the National Health Service Act 1977(1) and section 2(2) of, and paragraphs 4, 7(1)(a), 18, 19 and 20 of Schedule 2 to, the Health Authorities Act 1995(2), and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Health Authorities Act 1995 (Amendment of Transitional Provisions and Modification of References) Order 1996 and shall come into force on 1st April 1996, immediately before the coming into force of the principal Order.

(2) In this Order, “the principal Order” means the Health Authorities Act 1995 (Transitional Provisions) Order 1996(3).

**Amendment of principal Order**

2.—(1) The principal Order shall be amended in accordance with the following paragraphs of this article.

(2) In article 2 (transfer of officers employed by old authorities) after “Schedule 1” there is inserted “or Part I or III of Schedule 2”.

(3) In article 4(1) (transfer of trust property) after “Schedule 1” there is inserted “or Part I of Schedule 2”.

(4) In article 13 (lists of practitioners)—

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(1) 1977 c. 49; section 126 was amended by the National Health Service and Community Care Act 1990 (c. 19), section 65(2). See also section 6(6) of the Health Authorities Act 1995 (c. 17).

(2) 1995 c. 17.

(3) S.I.1996/709.

- (a) in paragraph (1)(b) after “31st March” there is inserted “1996”; and
- (b) for paragraph (2) there are substituted the following paragraphs—
  - “(2) Any application made before 1st April 1996 to a Family Health Services Authority for the inclusion of a person’s name in any list of a kind referred to in paragraph (1) and which has not been determined by that date shall on and after that date be treated as having been made—
    - (a) in the case of an application in relation to a list maintained under section 29 of the 1977 Act, to any Health Authority whose area includes any part of the proposed practice area specified in the application; and
    - (b) in the case of an application in relation to any other list, to any Health Authority in whose area are located any premises at or from which the person in respect of whom the application is made proposes to provide services under Part II of the 1977 Act.
  - (3) Any notice given before 1st April 1996 to a Family Health Services Authority of an intention on the part of any person to withdraw his name from any list of a kind referred to in paragraph (1) and which has not expired by that date shall on and after that date be treated as having been given to any Health Authority which maintain a list in which the name of that person is included by virtue of that paragraph.
  - (4) In paragraphs (1) to (3)—
    - “Health Authority” means a Health Authority specified in column (2) of Schedule 1, or in column (2) or (3) of Schedule 2, in relation to the Family Health Services Authority in whose list the name was included or, as the case may be, to which the application was made or the notice was given; and
    - “practice area” has the same meaning as in the National Health Service (General Medical Services) Regulations 1992(4).
  - (5) Any payment which, on or before 31st March 1996, fell to be made by or in relation to a Family Health Services Authority in respect of any person providing services under Part II of the 1977 Act, but which was not made before that date, shall after that date be made by or in relation to—
    - (a) the Health Authority which maintain the list in which, by virtue of paragraph (1), that person’s name is included on 1st April 1996; or
    - (b) where there is more than one such Health Authority, then—
      - (i) in the case of a Family Health Services Authority which is specified in column (1) in Part III or IV of Schedule 1, the Health Authority which is specified in column (2) of that Part in relation to that Family Health Services Authority, or
      - (ii) in the case of a Family Health Services Authority which is specified in column (1) in Part III or IV of Schedule 2, the Health Authority which is specified in column (3) of that Part in relation to that Family Health Services Authority.”.
- (5) In article 14 (continuity in exercise of functions of old authorities)—
  - (a) for paragraph (1) there are substituted the following paragraphs—
    - “(1) Subject to articles 13 and 17 and paragraphs (2) and (5), anything done on or before 31st March 1996 by or in relation to an old authority shall be treated after that date as if it had been done by or in relation to the relevant new authority.

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(4) S.I. 1992/635, to which there are amendments not relevant to this Order.

(1A) Paragraph (1) applies in particular to any of the matters specified in paragraphs (a) to (j) of paragraph 18(3) of Schedule 2 to the 1995 Act.

(1B) In relation to a fund-holding practice, the relevant new authority shall be the relevant Health Authority as defined in section 15(1B) and (1C) of the 1977 Act.”; and

(b) after paragraph (4) there is added the following paragraph—

“(5) Where on or before 31st March 1996 notice of a vacancy was given under regulation 12 of the National Health Service (General Medical Services) Regulations 1992 by a Family Health Services Authority in respect of a requirement for a medical practitioner to succeed to a practice which had been rendered vacant, and no determination has been made by the Medical Practices Committee before 1st April 1996 in respect of that vacancy, the notice shall be deemed to have been given by, and any application to succeed to the practice shall be deemed to have been made in relation to, the Health Authority in whose area there reside on 1st April 1996—

- (a) all of the patients on the list of the medical practitioner whose practice had been rendered vacant, or
- (b) if the patients do not all reside in the area of the same Health Authority, the largest number of the patients on the list of that medical practitioner.”.

(6) In article 15 (continuity in exercise of functions of Regional Health Authorities) for paragraph (1) there are substituted the following paragraphs—

“(1) Subject to article 20 and paragraph (2), anything done by or in relation to any Regional Health Authority shall be treated as if it had been done by or in relation to—

- (a) where the function in connection with which the thing was done is, on and after 1st April 1996, a function of the Secretary of State, the Secretary of State;
- (b) where the function in connection with which the thing was done is, on and after 1st April 1996, a function of a Health Authority, the Health Authority acting for the area in which there is situated the part of the Regional Health Authority’s region in relation to which the thing was done; and
- (c) where the function in connection with which the thing was done is, on and after 1st April 1996, a function of a Special Health Authority, that Special Health Authority.

(1A) Paragraph (1) applies in particular to any of the matters specified in paragraphs (a) to (j) of paragraph 18(3) of Schedule 2 to the 1995 Act.”

(7) After article 15 there are inserted the following new articles—

#### “Local Representative Committees

**16.—**(1) Anything done by or in relation to any Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee which was, immediately before 1st April 1996, recognised by a Family Health Services Authority under section 44 of the 1977 Act in relation to its locality shall—

- (a) where that thing has been done in connection with a particular practitioner, be treated as having been done by or in relation to the corresponding committee recognised by any Health Authority which maintain a list in which the name of that practitioner is, by virtue of article 13(1), included on 1st April 1996 or (as the case may be) to which his application is, by virtue of article 13(2), treated as having been made; and
- (b) in any other case, be treated as having been done by or in relation to any corresponding committee which is recognised by any Health Authority acting for an area which includes any part of the locality of that Family Health Services Authority.

(2) In this article—

“corresponding committee” means a Local Medical Committee, Local Dental Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee, as the case may be; and

“practitioner” means a person providing or seeking to provide services under Part II of the 1977 Act.

### **Pharmaceutical services**

17.—(1) In this article, “Pharmaceutical Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(5); and any reference in this article to a numbered regulation is to the regulation with that number in those Regulations, and expressions used in this article shall (unless the context otherwise requires) have the same meaning as in those Regulations.

(2) Where an application made before 1st April 1996 under regulation 4(2) (but not determined by that date) is one to which regulation 4(3)(a) applied (or would have applied), the application shall continue to be so treated notwithstanding that it would not have been so treated if made to the relevant new authority on or after that date.

(3) Where, in relation to an application made before 1st April 1996—

- (a) the applicant notifies a Family Health Services Authority (before 1st April 1996) or notifies a Health Authority (on or after that date) of an intended change of premises, pursuant to regulation 4(10), and (in the case of notification to a Family Health Services Authority) the application has not been amended by 1st April 1996; and
- (b) the new premises are in the area of a different Health Authority from the relevant new authority for the purposes of the application originally granted; but
- (c) apart from that, the change would have been treated as a minor relocation,

then the change shall be treated by the different Health Authority referred to in paragraph (b) as a minor relocation notwithstanding that it would not have been so treated if the application had originally been made to that Authority.

(4) Regulation 13 shall have effect in relation to appeals made on or after 1st April 1996 relating to determinations before that date under regulation 12 as if, in sub-paragraph (a) of paragraph (2), for the words from “whose name” to the end of paragraph (ii) there were substituted “to whom a copy of the application was sent in accordance with regulation 12(1)(c) or 12(2)(c), whose name is included in a medical or pharmaceutical list,”.

(5) Subject to paragraph (6) below, where an application for preliminary consent has been finally granted under regulation 14 before 1st April 1996, but the location in respect of which the consent has been finally granted falls within the area of more than one Health Authority after that date—

- (a) an application under regulation 4(2) pursuant to the preliminary consent may be made to only one of those Health Authorities; and
- (b) once such an application has been made, the effect of the preliminary consent shall lapse as respects all the other Health Authorities to which the application could have been made.

(6) In a case falling within regulation 15(2), the Health Authority to which the application under regulation 4(2) is made shall treat the application as one to change the location of the premises even where the two locations fall within the areas of different Health Authorities;

and paragraphs (2) and (3) above shall accordingly also apply in such a case as they apply in the cases there referred to.

(7) Where before 1st April 1996 a Family Health Services Authority has, by virtue of regulation 18(1A), determined a fee, allowance or other remuneration, that determination shall continue to have effect on and after that date in relation to the chemists to whom it applied as if it had been made by the relevant new authority, until whichever is the earlier of—

- (a) the date, if any, on which the Family Health Services Authority's determination was expressed to expire; and
- (b) the date on which any new determination of the fee, allowance or other remuneration by the relevant new authority comes into force.

(8) Where—

- (a) before 1st April 1996 a chemist had entered into an arrangement to provide supplemental services to such a home as is referred to in regulation 16(2)(a); but
- (b) on and after that date, the home is situated in the area of one Health Authority but the chemist's name is included in the pharmaceutical list of a different Health Authority,

the chemist may (notwithstanding that fact) continue, until the expiry of the arrangement referred to in paragraph (a) or until 31st March 1997 (whichever is the earlier), to provide those supplemental services to that home and to be remunerated for doing so (at such rate, if any, as has effect by virtue of paragraph (7) above or is determined by the relevant new authority), as if the home were situated in the area of that different Health Authority.

### **General dental services**

**18.**—(1) For the purposes of article 13(1)(b) and (2)(b), “premises”, in the case of a dentist who provides or (as the case may be) seeks to provide general dental services at a mobile surgery only, shall be construed as referring to the address at which correspondence in connection with such provision may be sent to him.

(2) Where—

- (a) before 1st April 1996, the Dental Practice Board has written to a dentist pursuant to regulation 29(1) of the National Health Service (General Dental Services) Regulations 1992(6) contrasting his pattern of treatment with the local pattern of treatment of other dentists; but
- (b) has immediately before that date neither given a direction under regulation 29(2) of those Regulations nor determined not to give such a direction,

any comparison on or after 1st April 1996 between the dentist's pattern of treatment and the local pattern of treatment of other dentists shall be made as if the word “local” continued to refer to the same geographical area as before.

### **National Health Service Tribunal**

**19.** Any direction relating to a list of a Family Health Services Authority given before 1st April 1996 by the National Health Service Tribunal under section 46(2)(a) of the 1977 Act(7) (or a corresponding direction given under the National Health Service Act 1946(8)) shall, where the direction is still in force immediately before 1st April 1996, be treated on and after that date as relating to the corresponding list kept by—

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(6) S.I. 1992/661; the relevant amending instrument is S.I. 1996/704.

(7) Section 46(2) was amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 34; and by the National Health Service (Amendment) Act 1995 (c. 31), section 1.

(8) 1946 c. 81.

- (a) in the case of a Family Health Services Authority specified in column (1) of Part III or IV of Schedule 1, the relevant new authority; or
- (b) in the case of a Family Health Services Authority specified in column (1) of Part III or IV of Schedule 2, all the Health Authorities specified in columns (2) and (3) in relation to that Family Health Services Authority, other than any such Health Authority in whose list the persons's name is included on and after 1st April 1996 by virtue of article 13(1).

### **Fund-holding practices**

**20.**—(1) In this article—

“the 1993 Regulations” means the National Health Service (Fund-holding Practices) Regulations 1993<sup>(9)</sup>;

“the 1996 Regulations” means the National Health Service (Fund-holding Practices) Regulations 1996<sup>(10)</sup>; and

“the relevant Health Authority” is to be construed in accordance with section 15(1B) and (1C) of the 1977 Act.

(2) Where before 1st April 1996 recognition as a fund-holding practice was granted by a Regional Health Authority under regulation 5 of the 1993 Regulations, that fund-holding practice shall be treated on and after that date as if it had been recognised by the Secretary of State under regulation 5 of the 1996 Regulations.

(3) Where before 1st April 1996—

(a) an application for recognition as a fund-holding practice under regulation 3 of the 1993 Regulations; or

(b) an application for a change in fund-holding status under regulation 10A of the 1993 Regulations,

was made to a Regional Health Authority, that application shall be treated on and after that date as an application to the Secretary of State under (respectively) regulation 3 or regulation 10 of the 1996 Regulations.

(4) Where, in relation to—

(a) a refusal before 1st April 1996 of recognition as a fund-holding practice;

(b) a removal before that date of such recognition; or

(c) a determination before that date that any part of an allotted sum has been misapplied, an appeal has or might have been brought under regulation 7(1), 17(1) or 25(6) (respectively) of the 1993 Regulations shall, notwithstanding their revocation by regulation 28 of the 1996 Regulations, continue to apply on and after 1st April 1996 in relation to any such appeals, except that the requirements in regulation 7(5), (7) and (11)(a) to notify the Regional Health Authority, and the provision in regulation 7(8) enabling the Regional Health Authority to be represented on any such appeal, shall not apply.

(5) For the purposes of paragraph (4) above, the provisions of the National Health Service and Community Care Act 1990<sup>(11)</sup> referred to in paragraphs 73(c) and 75(b), (d) and (f) of Schedule 1 to the 1995 Act are hereby saved in relation to such appeals; except that section 16(5) of the 1990 Act shall have effect as if the reference to the relevant Regional Health Authority—

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<sup>(9)</sup> S.I. 1993/567; amended by S.I. 1994/640, 1995/693 and 1995/3280.

<sup>(10)</sup> S.I. 1996/706.

<sup>(11)</sup> 1990 c. 19.

(a) in connection with the making of payments, were to the relevant Health Authority; and

(b) in connection with the determination of allotted sums, were to the Secretary of State.

(6) Where before 1st April 1996 a fund-holding practice has obtained the consent of a Regional Health Authority under regulation 20(4) or (5), 23(2) or 24(2) of the 1993 Regulations, that consent shall be treated on and after that date as if it had been granted by the relevant Health Authority under regulation 20(6) or (7), 24(2) or 25(2) respectively of the 1996 Regulations.”

(8) In Schedule 3 (determination of relevant new authorities for old authorities specified in Schedule 2), in paragraph 1 after “purposes of” there is inserted “article 2 (transfer of officers), article 4 (transfer of trust property) and”.

### **Amendment and construction of references**

**3.—**(1) In the Schedule to the Charing Cross and Westminster Medical School Act 1984(**12**) (Scheme for management and control of Medical School)—

(a) in paragraph 4(1)(b) and (2) for “District Health Authorities” there is substituted “Health Authorities”; and

(b) in paragraph 5(f) for “District Health Authority” there is substituted “Health Authority”.

(2) In any instrument (including any instrument made under an enactment) or any other document having effect on or before 31st March 1996, unless the context otherwise requires, any reference (however expressed) to—

(a) a District Health Authority, a Family Practitioner Committee(**13**) or a Family Health Services Authority shall be construed as a reference to a Health Authority;

(b) the district of a District Health Authority or the locality of a Family Practitioner Committee or Family Health Services Authority shall be construed as a reference to the area of a Health Authority;

(c) a Regional Health Authority shall—

(i) in so far as that reference is made in connection with a function of a Regional Health Authority which is after 31st March 1996 a function of the Secretary of State, be construed as a reference to the Secretary of State,

(ii) in so far as that reference is made in connection with a function of a Regional Health Authority which is after 31st March 1996 a function of a Health Authority, be construed as a reference to a Health Authority, and

(iii) in so far as that reference is made in connection with a function of a Regional Health Authority which is after 31st March 1996 a function of a Special Health Authority, be construed as a reference to that Special Health Authority; and

(d) the region of a Regional Health Authority shall, where that reference is made in connection with a function of a Regional Health Authority which is after 31st March 1996 a function of a Health Authority, be construed as a reference to the area of a Health Authority.

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(12) 1984 c.xiii.

(13) See section 2(1) of the National Health Service and Community Care Act 1990 (c. 19).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed by authority of the Secretary of State for Health

29th March 1996

*John Horam*  
Parliamentary Under Secretary of State,  
Department of Health



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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made in connection with the abolition, by the Health Authorities Act 1995 on 1st April 1996, of Regional Health Authorities, District Health Authorities and Family Health Services Authorities, and the establishment under the National Health Service Act 1977 of Health Authorities to exercise functions in relation to the National Health Service.

Article 2 of this Order amends the Health Authorities Act 1995 (Transitional Provisions) Order 1996 (“the principal Order”) to make further provision for the transfer of staff employed by District Health Authorities and Family Health Services Authorities, and for the transfer of trust property held by District Health Authorities (article 2(2), (3) and (8)), and for continuity in the exercise of functions—in particular those exercised by Family Health Services Authorities before 1st April 1996 in respect of persons providing, or seeking to provide, Family Health Services under Part II of the National Health Service Act 1977 (article 2(4) and (5)(b)), and generally in relation to functions exercised by all of the Authorities abolished on 1st April 1996 (article 2(5)(a) and (6)). Amendments are also made to the principal Order to make transitional provision in relation to Local Representative Committees, pharmaceutical services, general dental services, the National Health Service Tribunal and fund-holding practices (article 2(7)).

Article 3 of this Order makes provision in relation to references, in statutory provisions and elsewhere, to the bodies abolished on 1st April 1996 and the areas for which they were established to act. Textual amendments are made in one local Act (article 3(1)), and provision is made for the construction of such references in instruments (including statutory instruments) and other documents (article 3(2)).