
STATUTORY INSTRUMENTS

1999 No. 2541

NATIONAL HEALTH SERVICE, ENGLAND

**The Health Act 1999 (Fund-holding Practices)
(Transfer of Assets, Savings, Rights and Liabilities
and Transitional Provisions) Order 1999**

Made - - - - *10th September 1999*
Laid before Parliament *10th September 1999*
Coming into force - - *1st October 1999*

The Secretary of State for Health, in exercise of powers conferred on him by section 63 of the Health Act 1999(1) and of all other powers enabling him in that behalf, hereby makes the following Order:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Health Act 1999 (Fund-holding Practices) (Transfer of Assets, Savings, Rights and Liabilities and Transitional Provisions) Order 1999 and shall come into force on 1st October 1999.

(2) In this Order, unless the context otherwise requires—

“the 1977 Act” means the National Health Service Act 1977(2);

“the 1990 Act” means the National Health Service and Community Care Act 1990(3);

“the 1996 Regulations” means the National Health Service (Fund-holding Practices) Regulations 1996(4) as in force before the coming into force of this Order;

(1) 1999 c. 8. As regards Wales, the functions of the Secretary of State under section 63 of the Health Act 1999 are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); the relevant amendment is made by the Health Act 1999, section 66(5)(c). This Order therefore extends only to England.

(2) 1977 c. 49.

(3) 1990 c. 19.

(4) S.I. 1996/706, amended by S.I. 1997/747, 1997/1678, 1998/693 and 1999/261.

“allotted sum” means any sum determined by the Secretary of State and payable by the relevant Health Authority in accordance with section 15(1) of the 1990 Act as then in force, or a sum to be determined in accordance with article 14 of this Order;

“balance agreement” means a written agreement signed on behalf of the Health Authority and by each former member of a fund-holding practice whose portion of the final balance is affected by the agreement, setting out how the final balance of that practice is to be applied for one or more of the purposes set out in article 8(4);

“final balance” shall be construed in accordance with article 7;

“former members of a fund-holding practice” means the medical practitioners who—

- (a) were members of a fund-holding practice and who—
 - (i) renounced recognition as a fund-holding practice in accordance with regulation 11 of the 1996 Regulations, or
 - (ii) had recognition removed in accordance with regulation 32 of the National Health Service (Fund-holding Practices) Amendment Regulations 1999⁽⁵⁾; or

- (b) were members of a residual fund-holding practice;

“fund-holding account” means a bank account (including any account with a building society incorporated under the Building Societies Act 1986⁽⁶⁾) maintained by the former members of a fund-holding practice for the purpose of receiving an allotted sum or any part of it;

“fund-holding practice” means a fund-holding practice recognised under the 1990 Act as then in force;

“fund-holding provisions” means sections 14 to 17 of the 1990 Act⁽⁷⁾;

“list size” means the number of individuals on the list of patients of a medical practitioner who provides general medical services in accordance with arrangements under section 29 of the 1977 Act⁽⁸⁾;

“notice” means notice in writing;

“part financial year 1999–2000” means the period of the financial year 1999–2000 from 1st April 1999 to 30th September 1999 inclusive;

“residual fund-holding practice” means a fund-holding practice which was recognised as such for all or part of the part financial year 1999–2000;

“savings” shall be construed in accordance with regulation 25(1) and (2) of the 1996 Regulations⁽⁹⁾;

“transferred assets” shall be construed in accordance with article 2; and

“written consent” means written consent by the Health Authority to the application of part of the allotted sum for a specific purpose in accordance with regulation 25(2) of the

⁽⁵⁾ S.I. 1999/261.

⁽⁶⁾ 1986 c. 53.

⁽⁷⁾ Sections 14, 15, 16 and 17 of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”) were amended by, respectively, paragraphs 73, 74, 75 and 76 of Schedule 1 to the Health Authorities Act 1995 (c. 17) and, for sections 14 and 15, paragraph 65 of Schedule 2 to the National Health Service (Primary Care) Act 1997 (c. 46); and all of those sections were repealed by the Health Act 1999, section 1 which was brought into force on 1st October 1999 by the Health Act 1999 (Commencement No. 3) Order 1999 (S.I. 1999/2540 (C 64)) (“the No. 3 Commencement Order”).

⁽⁸⁾ Section 29 of the National Health Service Act 1977 (c. 49) (“the 1977 Act”) was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18; and by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8.

⁽⁹⁾ Regulation 25(1) was amended by S.I. 1999/261, regulation 22 and regulation 25(2) was amended by S.I. 1997/747, 1998/693 and 1999/261, regulations 14, 11 and 22 respectively.

1996 Regulations or regulation 24 of the National Health Service (Fund-holding Practices) Regulations 1993⁽¹⁰⁾ as the applicable regulation had effect on the date the consent was given.

(3) In this Order, except where the contrary appears, any reference to a Health Authority is a reference to the relevant Health Authority, construed in accordance with section 15(1B) and (1C)⁽¹¹⁾ of the 1977 Act as in force immediately prior to the coming into force of this Order.

(4) In this Order any reference to the rights and liabilities of the former members of a fund-holding practice is a reference to rights acquired and liabilities incurred in connection with the application of an allotted sum.

PART II

TRANSFER OF ASSETS, RIGHTS AND LIABILITIES

Transfer of assets

2.—(1) The allotted sum, or any remaining part of it, for the part financial year 1999–2000, or any previous financial year, whether held by the former members of the fund-holding practice or by the Health Authority, shall on 1st October 1999 be transferred to the Health Authority.

(2) On 1st October 1999 the Health Authority shall be substituted as the account holder of the fund-holding account.

(3) The Health Authority shall deal with the allotted sum transferred under paragraph (1) in accordance with articles 4 to 8.

Transfer of rights and liabilities

3.—(1) Subject to paragraphs (2) and (3)—

- (a) any rights to which the former members of the fund-holding practice were entitled, or which were enforceable by them, immediately before 1st October 1999; and
- (b) any liabilities to which the former members were subject, or which were enforceable against them immediately before that date,

shall on that date be transferred to or, as the case may be, shall on and after that date be enforceable by or against, the Health Authority.

(2) Paragraph (1) shall not apply to any rights acquired or liabilities incurred in connection with the application of savings for which written consent was required.

(3) Paragraph (1) shall not apply to any rights acquired or liabilities incurred in connection with the application of the allotted sum for the purpose of—

- (a) the purchase of goods and materials for the use of the former fund-holding practice, including support and maintenance contracts relating to computers or office equipment;
- (b) payments under leasing and hire purchase agreements for the purchase of goods and materials.

⁽¹⁰⁾ S.I. 1993/567; the relevant amending instrument is S.I. 1995/693. Those instruments were revoked by S.I. 1996/706.

⁽¹¹⁾ Section 15(1B) of the 1977 Act was added by section 12(1) of the 1990 Act and substituted by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 4(3); subsection (1C) was added by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 6.

PART III

LIABILITIES AND COSTS TO BE MET BY HEALTH AUTHORITIES

Use of the transferred assets

4.—(1) Subject to paragraph (2), where—

- (a) any assets have been transferred to the Health Authority in accordance with article 2; and
- (b) in accordance with articles 3, 5, or 6, any liability is enforceable against the Health Authority, or any cost is to be met by the Health Authority,

the Health Authority shall secure that the liability or cost shall first be met out of the transferred assets.

(2) Where liabilities and costs exceed the total value of the transferred assets they shall be met from the transferred assets in the following order—

- (a) costs incurred in preparation of the accounts as set out in article 5;
- (b) the cost of meeting rights and liabilities retained by the former members of a fund-holding practice as set out in article 6;
- (c) the cost of meeting rights and liabilities transferred to the Health Authority in accordance with article 3.

Costs incurred in preparing the accounts of residual fund-holding practices

5.—(1) Subject to article 9, the Health Authority shall meet the reasonable costs incurred by the former members of a fund-holding practice which was a residual fund-holding practice in preparing the annual accounts of that practice for the part financial year 1999–2000, which may include—

- (a) payments to employees or former employees of the residual fund-holding practice;
- (b) payments to either—
 - (i) a former member of the residual fund-holding practice, or
 - (ii) a registered medical practitioner to provide general medical services to the patients of a former member of the residual fund-holding practice who is engaged in preparing those accounts;
- (c) auditors' fees;
- (d) payments relating to computers and information technology.

(3) The Health Authority may also second any of its officers or employees to assist the former members of a residual fund-holding practice with the preparation of the annual accounts of the fund-holding practice for the part financial year 1999–2000, in which case it shall meet the cost of such secondment.

(4) The Health Authority may discharge its liability to meet the costs incurred in accordance with paragraph (1), in whole or part, by discharging the liability of the former members of the residual fund-holding practice to any other person.

Rights and liabilities remaining with former members

6.—(1) Subject to paragraphs (2) and (3), any liability which did not become enforceable against the Health Authority in accordance with article 3, shall nevertheless be paid for by the Health Authority if the liability—

- (a) is one which falls within article 3(2); or

(b) is incurred on or after 1st October 1999 pursuant to written consent granted before that date.

(2) The Health Authority shall be liable to pay for a liability of the former members of the fund-holding practice under paragraph (1) up to the lower of any limitation on the sum to be applied set out in the written consent or in paragraphs (3B) and (3C) of regulation 25(12) of the 1996 Regulations as those paragraphs had effect on the date the Health Authority consent was granted.

(3) Where the former members of a fund-holding practice become aware of any claim relating to a liability falling within paragraph (1), they shall—

- (a) notify the Health Authority of the claim; and
- (b) take such action as the Health Authority shall reasonable require to avoid, dispute, resist, compromise, defend or appeal against the claim.

PART IV

FINAL BALANCE

Calculation and apportionment of final balance

7.—(1) When a Health Authority is satisfied that all liabilities and costs transferred to the Health Authority or due to be met by it, have been discharged in accordance with articles 4, 5 and 6, the Health Authority shall determine whether there remains any part of the assets transferred under article 2.

(2) The Health Authority shall inform each former member of a fund-holding practice by notice of the unspent proportion of the transferred assets which, including any savings of a residual fund-holding practice for the part financial year 1999–2000, is referred to in this Order as the final balance of the former members of the fund-holding practice.

(3) Where one or more of the former members of the fund-holding practice are included on the medical lists of one or more Health Authorities other than the relevant Health Authority, the final balance of that fund-holding practice shall be apportioned between the relevant Health Authority and such other Health Authority or Authorities in accordance with paragraphs (5) to (7) and, where any such other Health Authority is in England, the relevant Health Authority shall transfer to such other Health Authority or Authorities that proportion of the final balance to which each is entitled.

(4) Where the final balance of a former fund-holding practice is apportioned between Health Authorities the relevant Health Authority shall inform each Health Authority concerned and each former member of the fund-holding practice by notice of the apportionment and the amount of each former member's portion.

(5) The entitlement of each Health Authority shall be the portion of each former member of the fund-holding practice who is on its medical list calculated in accordance with paragraphs (6) and (7).

(6) Where there was a written agreement in force on 30th September 1999 between the former members of the fund-holding practice which made specific provision for the apportionment of savings between those members, the final balance shall be apportioned in accordance with that agreement.

(7) Where there was no such agreement in force on 30th September 1999, the final balance shall be apportioned between the former members of the fund-holding practice so that in respect of each former member of the fund-holding practice his portion of the final balance shall be the same

(12) Paragraphs (3B) and (3C) of regulation 25 were inserted by S.I. 1998/693, regulation 11(4). Paragraph (3B) was amended by, and paragraph (3C) was substituted by, S.I. 1999/261, regulation 22(7) and (8).

proportion of the total final balance of the practice as the proportion which his list size bore to the sum of all the list sizes of the former members of the fund-holding practice on the apportionment date.

(8) Where a former member of a fund-holding practice dies or retires or leaves the practice following the apportionment of the practice's final balance—

- (a) where there is provision for the relevant contingency in an agreement under paragraph (6), the portion of the former member shall be dealt with in accordance with that agreement;
- (b) where there is no agreement under paragraph (6) or such an agreement makes no provision for the relevant contingency, the portion of the former member shall be at the disposal of the Health Authority and article 8 shall not apply to that portion.

(9) In this article, “apportionment date” means—

- (a) in the case of former fund-holding practices which were not recognised fund-holding practices on 30th September 1999, the date on which the former fund-holding practice ceased to be recognised as a fund-holding practice; and
- (b) 30th September 1999, in the case of residual fund-holding practices which were still recognised on that date.

Influence over final balance

8.—(1) Subject to the remaining paragraphs of this article, the Health Authority shall apply any final balance of the former members of a fund-holding practice as follows—

- (a) for the purposes specified in a balance agreement between itself and the former members, or
- (b) where no balance agreement has been entered into before the agreement date, in discharging liabilities incurred by the former members of the fund-holding practice for the purposes specified in paragraph (4) but only up to a maximum for each financial year of £25,000 or 25% of the total final balance of those members, whichever is the less, such sum to be made available—
 - (i) except where paragraph (9)(b) applies, in each of the financial years 1999–2000 to 2002–2003;
 - (ii) where paragraph (9)(b) applies, in each of the financial years 2000–2001 to 2002–2003, with the sum for the financial year 1999–2000 added to the sum made available in any of those years.

(2) Except where there is still a balance agreement in force on that date, where any part of the final balance is unspent on 1st April 2003 the Health Authority shall no longer be required to spend it in discharging liabilities incurred by the former members of a fund-holding practice.

(3) The final balance shall not be applied in accordance with either sub-paragraph (a) or (b) of article 8(1) until—

- (a) except in the case of the former members of a fund-holding practice which was no longer recognised as a fund-holding practice on 1st April 1998, the annual accounts for the financial year 1998–1999, and in the case of residual fund-holding practices, the part financial year 1999–2000, have been submitted to the Health Authority and audited, in accordance with articles 9 and 10; and
- (b) where apportionment of the final balance is necessary in accordance with article 7, the Health Authority has sent out the notices required by article 7(4).

(4) The final balance may only be applied for one or more of the following purposes—

- (a) the purchase of material or equipment which—

- (i) is to be used for the treatment (including diagnostic treatment) of patients of the former members of the fund-holding practice, or
 - (ii) enhances the comfort or convenience of patients of the former members of the fund-holding practice,
- (b) payments to—
- (i) dieticians, or
 - (ii) counsellors providing advice on diet, alcohol consumption, smoking or other personal health matters,
- (c) the purchase of computers, including hardware and software,
- (d) payments to staff other than salaries and other payments permitted by paragraph 52(3) of the Statement published in accordance with regulation 34 of the National Health Service (General Medical Services) Regulations 1992(13),
- (e) initiatives to improve prescribing,
- (f) payments for—
- (i) the purchase of health education materials or equipment,
 - (ii) advice on the dissemination of health education to patients,
- (g) in relation to any premises from which the former members carry on their practice—
- (i) improvements to the premises including alterations to or decoration of the premises and the purchase of furniture and furnishings,
 - (ii) building an extension,
- where the proposed improvement or extension is consistent with any investment plan adopted by the Health Authority which exercises functions in relation to the patients of the former fund-holding practice.

(5) Subject to paragraph (7), where a former member of a fund-holding practice withdrew from the fund-holding practice before 1st April 1999 in circumstances other than death or retirement and a proportion of the savings of the fund-holding practice was transferred to the Health Authority in accordance with regulation 9(5) of the 1996 Regulations(14), any such savings which remain with the Health Authority on 1st October 1999 may be spent for any of the purposes set out in paragraph (4) which the former member may require and paragraph (1) shall not apply.

(6) Subject to paragraph (7), where savings of a fund-holding practice from which recognition was removed were transferred to a Health Authority in accordance with regulation 17 of the 1996 Regulations, any such savings which remain with the Health Authority on 1st October 1999 may be spent for any of the purposes set out in paragraph (4) which the former members of that practice may require, and paragraph (1) shall not apply.

(7) Notwithstanding paragraphs (5) and (6) and the repeal of the fund-holding provisions, where the Health Authority has already entered a commitment to spend savings pursuant to regulation 9(5) or 17(3) of the 1996 Regulations for one of the purposes specified in regulation 25 of those Regulations, it may apply those savings for that purpose and this article shall not apply to those savings.

(8) Where the final balance of a former fund-holding practice is apportioned in accordance with article 7, and the relevant Health Authority transfers to another Health Authority an amount representing the portion of a former member of that fund-holding practice, it shall be the Health

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

(14) Regulation 9(5) of the 1996 Regulations was amended by S.I. 1997/747, regulation 7 and 1998/693, regulation 4. Paragraphs (2) to (6) of regulation 9 were revoked by S.I. 1999/261, regulation 13, but by virtue of regulation 29(1) of that instrument continue to apply where a member of a fund-holding practice withdrew from that practice in circumstances other than death or retirement before 1st April 1999.

Authority which receives that portion which shall apply that final balance in accordance with paragraph (1) and enter any balance agreement with that former member.

- (9) In this article, “agreement date” means—
- (a) in the case of former members of fund-holding practices other than residual fund-holding practices, 31st October 1999, or
 - (b) in the case of former members of fund-holding practices which were residual fund-holding practices, 1st October 2000.

PART V

ACCOUNTS

Preparation of accounts

9.—(1) Subject to paragraph (3), the duty in section 98(2B)(c) of the 1977 Act⁽¹⁵⁾ shall apply to former members of a fund-holding practice which was a residual fund-holding practice (including those former members of such a practice who have renounced recognition in accordance with regulation 11 of the 1996 Regulations⁽¹⁶⁾) with respect to the part financial year 1999–2000 as it applies for other financial years.

(2) The duty in section 98(2B)(d) of the 1977 Act shall apply to Health Authorities with respect to the part financial year 1999–2000 as it applies for other financial years.

(3) Where, during the part financial year 1999–2000, recognition has been removed from the former members of a fund-holding practice in accordance with regulations 13 and 14 or 15 and 16 of the 1996 Regulations, the duty imposed under section 98(2B)(c) of the 1977 Act shall be performed by the Health Authority.

(4) For the purposes of paragraphs (1) to (3), section 98(2B) of the 1977 Act shall continue to apply as though that section and the fund-holding provisions had not been repealed.

(5) The former members of a fund-holding practice which was a residual fund-holding practice shall submit the annual accounts for the part financial year 1999–2000 to the Health Authority on or before 12th November 1999.

Audit of accounts

10. Any duty imposed on the former members of a fund-holding practice by Part II of the Audit Commission Act 1998⁽¹⁷⁾ but not performed on 1st October 1999 shall be performed by the former members of the fund-holding practice in accordance with the provisions of that Part and of any directions which may be given by the Secretary of State as though the fund-holding provisions and section 6(3) of that Act had not been repealed.

⁽¹⁵⁾ Section 98(2B) of the 1977 Act was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 20(2)(b), and amended by the Health Authorities Act 1995, section 2(1) and Schedule 1, paragraph 50(c); these provisions were repealed by the Health Act 1999, section 65(2) and Schedule 5, as brought into force by the No. 3 Commencement Order.

⁽¹⁶⁾ Regulation 11 was amended by S.I. 1999/261, regulation 14.

⁽¹⁷⁾ 1998 c. 18.

PART VI

SAVING PROVISIONS

Investigation of complaints by Health Service Commissioner

11. A complaint made to the Health Services Commissioner for England under the Health Service Commissioners Act 1993(**18**) in relation to the former members of a fund-holding practice whether made before or after the repeal of the fund-holding provisions may be investigated, or if not disposed of, shall continue to be investigated by that Commissioner in accordance with that Act as though section 3(1B) of that Act had not been repealed.

Investigation of other complaints

12. The procedure to investigate complaints established and operated under paragraph 47A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(**19**) shall apply in relation to any complaint about the use of the allotted sum by the former members of a fund-holding practice, whether a complaint was made before, on or after the date this Order comes into force, and notwithstanding the repeal of the fund-holding provisions the former members of the fund-holding practice shall cooperate with the investigation of the complaint by the Health Authority as required by paragraph 47B of Schedule 2 to those Regulations.

Recovery of contribution to allotted sum

13. Where, before 1st October 1999, a Health Authority was entitled to recover a portion of a payment from another Health Authority under section 15(4) of the 1990 Act(**20**), notwithstanding the repeal of the fund-holding provisions that Health Authority shall be entitled to recover such an amount in accordance with that section and any directions given by the Secretary of State; and for the purposes of such recovery section 15(4) of the 1990 Act shall continue to apply as if it had not been repealed.

Variation and determination of allotted sum

14.—(1) The procedure for varying a proposed allotted sum under paragraphs (4A) to (4C) of regulation 18 of the 1996 Regulations(**21**) shall notwithstanding the repeal of the fund-holding provisions be applied to the proposed allotted sum for the financial year 1999–2000 so as to achieve a proportionate allotted sum for the part financial year 1999–2000.

(2) The procedure for determining an allotted sum under paragraphs (5) and (6) of regulation 18 of the 1996 Regulations(**22**) shall be applied to the varied allotted sum for the part financial year 1999–2000, notwithstanding the repeal of the fund-holding provisions.

(3) For the purposes of paragraphs (1) and (2), paragraph (4A) to (6) of regulation 18 of the 1996 Regulations shall continue to apply as though the fund-holding provisions had not been repealed.

(18) 1993 c. 46, as amended by the Health Service Commissioners (Amendment) Act 1996 (c. 5) and the Health Act 1999. Section 3(1B) was repealed by the Health Act 1999, section 65(1) and Schedule 4, paragraph 85, as brought into force by the No. 3 Commencement Order.

(19) S.I. 1992/635. Paragraphs 47A and 47B were inserted by S.I. 1996/702.

(20) Section 15(4) of the 1990 Act was substituted by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 74(d), and amended by the National Health Service (Primary Care) Act 1997, Schedule 2, paragraph 65(5).

(21) Paragraphs (4A) to (4C) were inserted by S.I. 1997/1678, regulation 3(2).

(22) Paragraph (5) was amended by, and paragraph (6) was inserted by, S.I. 1997/1678, regulation 3, paragraphs (3) and (4) respectively.

Outstanding applications relating to savings

15.—(1) Any application made before 1st October 1999 to the Health Authority to apply the allotted sum for a purpose specified in regulation 25(2) of the 1996 Regulations shall notwithstanding the repeal of the fund-holding provisions be determined by the Health Authority, and that determination be subject to the right to appeal, in accordance with regulation 25(**23**).

(2) Any appeal made before 1st October 1999 to the Secretary of State, or where the right to appeal to the Secretary of State arises on or after 1st October 1999, against the Health Authority's refusal to consent to the application of any part of the allotted sum for a purpose specified in regulation 25(2) of the 1996 Regulations shall notwithstanding the repeal of the fund-holding provisions be determined by the Secretary of State in accordance with regulation 25.

(3) For the purposes of paragraphs (1) and (2), paragraphs (3) to (7) of regulation 25 of the 1996 Regulations shall continue to apply as though the fund-holding provisions had not been repealed.

Recovery of misapplied sums

16.—(1) Notwithstanding the repeal of the fund-holding provisions, the Secretary of State may on or after 1st October 1999 apply the procedure in regulation 26 of the 1996 Regulations(**24**) to determine whether any part of the allotted sum has been misapplied by the former members of a fund-holding practice and the Health Authority may recover in accordance with that regulation any sum found to have been misapplied and regulation 26 of the 1996 Regulations shall apply to such determinations and recoveries as though the fund-holding provisions had not been repealed.

(2) Paragraph (1) shall apply whether or not the procedures to determine whether a sum had been misapplied or to recover such a sum had been begun before 1st October 1999.

Continuity of NHS contracts

17. Any subsisting agreement entered into by the former members of a fund-holding practice which by virtue of section 4 of the 1990 Act was an NHS contract shall, notwithstanding the repeal of section 4(2)(f) of that Act, continue to be an NHS contract and section 4(3), (5) and (7) to (9) of that Act shall continue to apply in relation to it.

Signed by authority of the Secretary of State for Health

10th September 1999

John Denham
Minister of State,
Department of Health

(23) Regulation 25 was amended by S.I. 1997/747, 1997/1678, 1998/693 and 1999/261.

(24) Regulation 26 of the 1996 Regulations was amended by S.I. 1999/261, regulation 24.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional provisions in connection with the abolition, by section 1 of the Health Act 1999, of the system of GP fund-holding in England, as established by the National Health Service and Community Care Act 1990.

In particular, the Order provides for the transfer of assets, rights and liabilities connected with fund-holding to the relevant Health Authority of the former fund-holding practice (articles 2 and 3) and for the use by the Health Authority of those assets in meeting rights and liabilities transferred to it and those retained by the former members of fund-holding practices (articles 4 and 6).

Where there are still assets after all the liabilities of the former fund-holding practice have been met the balance is to be apportioned, where there are former members of a practice in the area of a Health Authority other than the relevant Health Authority, between those Health Authorities (article 7), and in any event to be applied by the Health Authority for specified purposes in accordance with the wishes of the former members of the practice (article 8).

In addition, in Parts V and VI, provision is made so that, notwithstanding the abolition of fund-holding, obligations relating to accounts apply until final accounts have been audited and submitted, complaints in relation to the conduct of a fund-holding practice may still be examined, outstanding matters relating to the use of savings from fund-holding may be resolved and misapplied allotted sums recovered, on and after 1st October 1999.