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STATUTORY INSTRUMENTS

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**2001 No. 740**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Health Authorities (Establishment  
and Abolition) (England) Order 2001**

<i>Made</i>	- - - -	<i>7th March 2001</i>
<i>Laid before Parliament</i>		<i>8th March 2001</i>
<i>Coming into force</i>	- -	<i>1st April 2001</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 8(1) to (4) and (6) and 126(3), (4) and (5) of the National Health Service Act 1977(1) 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 (Establishment and Abolition) (England) Order 2001 and shall come into force on 1st April 2001.

(2) In this Order—

“the 1977 Act” means the National Health Service Act 1977;

“the material date” means 1st April 2001;

“the new Authorities” means the Health Authorities established by this Order, which are specified in Schedule 1 to this Order;

“the old Authorities” means the Health Authorities specified in column (1) of Schedule 2 to this Order;

“the principal Order” means the Health Authorities (England) Establishment Order 1996(2);

“the relevant new Authority” means, in relation to any old Authority specified in column (1) of Schedule 2 to this Order, the new Authority which is specified in column (2) of that Schedule in relation to that old Authority.

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- (1) 1977 c. 49; section 8 was substituted by section 1(1) of the Health Authorities Act 1995 (c. 17) and amended by paragraph 5 of Schedule 4 to the Health Act 1999 (c. 8) (“the 1999 Act”); section 126(3) and (4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), by paragraph 27 of Schedule 2 to the National Health Service (Primary Care) Act 1997 (c. 46) and by paragraph 37(6) of Schedule 4 to the 1999 Act; section 126(5) was added by section 65(2) of the 1990 Act. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and the entry for the 1977 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.
- (2) S.I. 1996/624, to which there are amendments not relevant to this Order.

### **Abolition of Health Authorities**

2. The old Authorities are hereby abolished, and accordingly their names and the description of their areas are omitted from columns (1) and (2) of the Schedule to the principal Order.

### **Establishment, names and areas of the new Authorities**

3. For each of the areas described in column (2) of Schedule 1 to this Order there is established a Health Authority which shall be known by the name specified in column (1) of that Schedule in relation to that area.

### **Transfer of staff**

4.—(1) Subject to paragraph (2), this article applies to any person who, immediately before the material date, was employed by any of the old Authorities.

(2) This article does not apply to any person who is to be transferred on the material date to a Primary Care Trust by an order under paragraph 23(1) of Schedule 5A to the 1977 Act<sup>(3)</sup>.

(3) The persons to whom this article applies shall be transferred on the material date from the old Authorities to the employment of the relevant new Authorities.

(4) The contract of employment of a person to whom this article applies is not terminated by the transfer under paragraph (3) above and has effect from the material date as if originally made between that person and the relevant new Authority.

(5) Without prejudice to paragraph (4) above—

- (a) all the rights, powers, duties and liabilities of the old Authority from which an employee is transferred under paragraph (3) above under or in connection with his contract of employment shall by virtue of this paragraph be transferred to the relevant new Authority; and
- (b) anything done before the material date by or in relation to the old Authority from which he is so transferred in respect of the employee or the contract of employment shall be deemed from that date to have been done by or in relation to the new Authority to which he is transferred.

(6) Paragraphs (4) and (5) above do not transfer a person's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs the old Authority from which they would be transferred that he objects to the transfer.

(7) Where a person objects as mentioned in paragraph (6) above, his contract of employment with the old Authority from which he would be transferred shall be terminated immediately before the material date; but he shall not be treated, for any purpose, as having been dismissed by that Authority.

(8) This article is without prejudice to any right of a person to which this article applies to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise only by reason that, under this article, the identity of his employer changes unless the person shows that, in all the circumstances, the change is a significant change and is to his detriment.

### **Transfer of property, rights and liabilities**

5.—(1) Subject to paragraph (2) below, all the property, rights and liabilities of the old Authorities, not mentioned in article 4 above, are transferred in each case from the old Authority in question to the relevant new Authority.

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(3) Schedule 5A was inserted by Schedule 1 to the 1999 Act.

(2) Paragraph (1) above does not apply to any property, rights or liabilities which are to be transferred on the material date to a Primary Care Trust by an order under paragraphs 21(1) or 23(1) of Schedule 5A to the 1977 Act.

#### **Accounts of old Authorities**

6. Any duty imposed on any of the old Authorities by or under section 98 of the 1977 Act, but not performed by the material date, shall be performed by the relevant new Authority.

#### **Winding up of affairs of old Authorities**

7. It is the duty of each new Authority to take such action as may be necessary for the winding up of the affairs of any old Authority in relation to which it is the relevant new Authority.

#### **Provision for continuity in the exercise of functions**

8.—(1) Anything duly done by, and any application duly made by, or any direction, authorisation or notice given to or by any of the old Authorities in relation to any of its property, rights or liabilities shall be deemed to have been duly done by or made by or given to or by the relevant new Authority.

(2) Any instrument made by any of the old Authorities continues in force in relation to the relevant new Authority until it is varied or revoked by the relevant new Authority.

(3) Any form supplied by any of the old Authorities, or any form supplied by the Secretary of State in relation to any of the old Authorities continues to be a valid form in relation to the relevant new Authority until it is cancelled or withdrawn by the Secretary of State or the relevant new Authority, as if any reference contained in that form to the old Authority in question were a reference to the relevant new Authority.

#### **Investigation of complaints by the Health Service Commissioner**

9.—(1) A complaint made under the Health Service Commissioners Act 1993(4) to the Health Service Commissioner for England in relation to any of the old Authorities, whether made before, on or after the material date may be investigated by the Commissioner notwithstanding the abolition of the old Authorities as if the complaint has been made in relation to the relevant new Authority.

(2) The Health Service Commissioner for England, where he conducts such an investigation, shall send a report of the result of his investigation to the relevant new Authority.

#### **Amendment of the principal Order**

10.—(1) In column (1) of the Schedule to the principal Order, the name of each new Authority is inserted at the appropriate place.

(2) In column (2) of that Schedule, opposite each such name, there is inserted the description of the area for which, by virtue of article 3 of this Order, the Authority of that name is established.

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(4) 1993 c. 46; as amended by the Health Service Commissioners (Amendment) Act 1996 (c. 5).

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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

7th March 2001

*John Denham*  
Minister of State,  
Department of Health

## SCHEDULE 1

Article 1(2)

## NEW AUTHORITIES AND THEIR AREAS

Column (1) <i>Name of new Authority</i>	Column (2) <i>Description of area</i>
Barnet, Enfield and Haringey Health Authority	In Greater London— the London boroughs of Barnet, Enfield and Haringey.
Bexley, Bromley and Greenwich Health Authority	In Greater London— the London boroughs of Bexley, Bromley and Greenwich.
Hertfordshire Health Authority	The county of Hertfordshire.
Isle of Wight, Portsmouth and South-East Hampshire	In the county of Hampshire— in the city of Winchester, the wards of Boarhunt and Southwick, and Denmead; the boroughs of Fareham, Gosport and Havant; in the district of East Hampshire, the wards of Clanfield and Buriton, East Meon and Langrish, Froxfield and Steep, The Hangers, Horndean Catherington, Horndean Hazleton, Horndean Kings, Horndean Murray, Liss, Petersfield Heath, Petersfield St. Mary's, Petersfield St. Peter's, and Rowlands Castle.
	The counties of Isle of Wight and Portsmouth.

## SCHEDULE 2

Article 1(2)

## RELEVANT NEW AUTHORITIES

Column (1) <i>Name of old Authority</i>	Column (2) <i>Name of relevant new Authority</i>
Barnet Health Authority	Barnet, Enfield and Haringey Health Authority
Bexley and Greenwich Health Authority	Bexley, Bromley and Greenwich Health Authority
Bromley Health Authority	Bexley, Bromley and Greenwich Health Authority
East and North Hertfordshire Health Authority	Hertfordshire Health Authority
Enfield & Haringey Health Authority	Barnet, Enfield and Haringey Health Authority
Isle of Wight Health Authority	Isle of Wight, Portsmouth and South-East Hampshire Health Authority

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Column (1) <i>Name of old Authority</i>	Column (2) <i>Name of relevant new Authority</i>
Portsmouth and South-East Hampshire Health Authority	Isle of Wight, Portsmouth and South-East Hampshire Health Authority
West Hertfordshire Health Authority	Hertfordshire Health Authority

### EXPLANATORY NOTE

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

This Order abolishes on 1st April 2001 the Health Authorities listed in column (2) of Schedule 2 to the Order (“the old Authorities”) and establishes in their place, and for the areas described in column (2) of Schedule 1 to the Order, the new Health Authorities listed in column (1) of that Schedule (“the new Authorities”) (articles 2 and 3). The Order amends the Health Authorities (England) Establishment Order 1996 accordingly (article 10).

The Order also provides for the transfer of staff, property, rights and liabilities from the old Authorities to the new Authorities (articles 4 and 5), for the accounts and the winding up of the affairs of the old Authorities (articles 6 and 7), for the continuity of the exercise of functions between the old Authorities and the new Authorities (article 8) and for the investigation of complaints against the old Authorities by the Health Service Commissioner (article 9).