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STATUTORY INSTRUMENTS

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**2002 No. 1919 (C. 60)**

**NATIONAL HEALTH SERVICE, WALES**

**The Health and Social Care Act 2001  
(Commencement No. 3) (Wales) Order 2002**

*Made* - - - - *22nd July 2002*

The Secretary of State for Health, in exercise of the power conferred on him by sections 64(6) and (8) and 70(2) of the Health and Social Care Act 2001<sup>(1)</sup> and all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, interpretation and application**

**1.**—(1) This Order may be cited as the Health and Social Care Act 2001 (Commencement No. 3) (Wales) Order 2002.

(2) In this Order—

“the Act” means the Health and Social Care Act 2001;

“the 1977 Act” means the National Health Service Act 1977<sup>(2)</sup>;

“concluded” in relation to a case falling within article 2(2) means that the NHS Tribunal has given its decision and—

(a) any period within which an appeal may be made has expired,

(b) an appeal is withdrawn, or

(c) all rights of appeal have been exhausted

as the case may be;

“pharmacist case” means a case before the NHS Tribunal in relation to a person undertaking to provide pharmaceutical services under Part II of the 1977 Act; and

“the NHS Tribunal” means the tribunal constituted under section 46 of the 1977 Act.

(3) This Order applies to Wales only.

**Appointed days in respect of the abolition of the NHS Tribunal**

**2.**—(1) Subject to paragraph (2), 26th August 2002 is the day appointed for the coming into force of each provision of the Act specified in Part I of the Schedule to this Order.

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(1) 2001 c. 15.

(2) 1977 c. 49.

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(2) The day appointed for the coming into force of each provision of the Act specified in Part I of the Schedule to this Order in relation to cases falling within paragraph (3) is the date 14 days after the date on which the last such case is concluded.

(3) For the purposes of paragraph (2) the cases are those—

- (a) where proceedings in the case (other than a pharmacist case) commenced before the NHS Tribunal under the 1977 Act before 1st July 2002 but the case is not concluded until after 26th August 2002, or
- (b) in a pharmacist case, where proceedings in the case commenced before the NHS Tribunal before the coming into force of the first regulations made under section 42 of the 1977 Act after the commencement of section 20(6) of the Act.

### **Appointed day in respect of the Family Health Services Appeal Authority**

**3.—**(1) Subject to paragraph (2), the day appointed for the coming into force of each provision of the Act specified in Part II of the Schedule to this Order is 26th August 2002.

(2) Until section 16 of the Act is commenced fully in relation to Wales, each provision of the Act specified in column 1 of Part III of the Schedule to this Order shall take effect subject to the amendment specified in respect of it in column 2 of that Part.

Signed by authority of the Secretary of State for Health

22nd July 2002

*John Hutton*  
Minister of State,  
Department of Health

## SCHEDULE

Article 2(1) and (2)

### PART I

#### **PROVISIONS OF THE ACT COMING INTO FORCE IN RESPECT OF THE ABOLITION OF THE NHS TRIBUNAL**

Section 16 (abolition of the NHS Tribunal)

Section 67 (minor and consequential amendments and repeals) in so far as it relates to—  
paragraph 5(8) and (16) of Schedule 5;

the entry in Schedule 6 repealing sections 46 to 49E of, and Schedule 9 to, the 1977 Act and sections 2(1), 4 to 6 and 14(5) of the National Health Service (Amendment) Act 1995.

Article 3(1)

### PART II

#### **PROVISIONS OF THE ACT COMING INTO FORCE ON 26TH AUGUST 2002 IN RESPECT OF THE FHSAA**

Section 27 (The Family Health Services Appeal Authority)

Section 67(1) (minor and consequential amendments) in so far as it relates to—

paragraph 3 of Schedule 5 (The House of Commons Disqualification Act 1975 (c. 24));

paragraph 5(10)(b) and (13)(a), (b) and (d) of Schedule 5 (The National Health Service Act 1977 (c. 49));

paragraph 10 of Schedule 5 (The Tribunal and Inquiries Act 1992 (c. 53)).

Article 3(2)

### PART III

#### **PROVISIONS OF THE ACT AMENDED UNTIL SECTION 16 OF THE ACT IS COMMENCED FULLY IN RELATION TO WALES**

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Amendment</i>
Section 27(2) (which amends section 102 of the 1977 Act (allowances and remuneration for members of certain bodies))	In section 27(2)— (a) for “for” in the second place where it occurs, substitute “after” and (b) for “substituted “the FHSAA”” substitute “added “and the FHSAA””.
Section 27(5)(b) (which amends paragraph 9(a) of Schedule 1 to the National Health Service (Primary Care) Act 1997 (preferential treatment on transferring to medical lists))	In section 27(5)(b)— (a) for “for” substitute “after”, (b) after “section 46” insert “of the 1977 Act”, (c) from “substituted” to the end, substitute “added “where representations were made

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<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Amendment</i>
	under paragraph 3 before 1st July 2002 or where representations are made under that paragraph on or after that date, the Family Health Services Appeal Authority constituted under section 49S””.
Schedule 5, paragraph 5(10)(b) (which amends section 100 of the 1977 Act (payments of expenses of certain bodies))	In Schedule 5— In paragraph 5(10)(b)— (a) for “for” substitute “after”, (b) for “substitute” substitute “insert”, and (c) for “(d)” substitute “(dd)”.
Paragraph 10 (which amends paragraph 33(b) of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals))	In paragraph 10— (a) for “substitute” substitute “add” and (b) for “(b)” substitute “(bb)”.

## EXPLANATORY NOTE

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

This Order is the third Commencement Order for Wales made under the Health and Social Care Act 2001 (“the Act”).

Subject to Article 2(2) and (3), Article 2(1) brings into force for Wales, on 26th August 2002, provisions of the Act which abolish the NHS Tribunal constituted under section 46 of the National Health Service Act 1977 (“the 1977 Act”). Article 2(2) and (3) make special provision for the coming into force date for cases where proceedings in the case commenced before the NHS Tribunal before 1st July 2002 and also for any cases before the NHS Tribunal that relate to a person undertaking to provide pharmaceutical services under Part II of the 1977 Act.

Article 3(1) brings into force in Wales, on 26th August 2002, provisions of the Act which establish, and relate to, the Family Health Services Appeal Authority (“the FHSAA”).

Article 3(2) makes transitional provision in respect of amendments which would otherwise be made to the National Health Service Act 1977 (c. 49) by section 27(2) of, and paragraph 5(10)(b) of Schedule 5 to, the Act, to the National Health Service (Primary Care) Act 1997 by section 27(5)(b) of the Act and to the Tribunals and Inquiries Act 1992 (c. 53) by paragraph 10 of Schedule 5 to the Act.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of the Health and Social Care Act 2001 have been brought into force in relation to Wales by commencement order made before the date of this Order:

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Section 3	1st July 2002 (partially)	2002/1475
Section 5	1st July 2002	2002/1475
Section 11	1st December 2002	2002/1475
Section 19	1st July 2002	2002/1475
Section 20	1st July 2002	2002/1475
Section 21	1st July 2002	2002/1475
Section 22	1st July 2002	2002/1475
Section 23	1st July 2002	2002/1475
Section 24	1st July 2002	2002/1475
Section 25	1st July 2002	2002/1475
Section 26	1st July 2002	2002/1475
Section 28	1st July 2002	2002/1475
Section 29	1st July 2002	2002/1475
Section 30	1st July 2002	2002/1475
Section 31	1st July 2002	2002/1475
Section 32	1st July 2002	2002/1475
Section 33	1st July 2002	2002/1475
Section 34	1st July 2002	2002/1475
Section 35	1st July 2002	2002/1475
Section 36	1st July 2002	2002/1475
Section 37	1st July 2002	2002/1475
Section 38	1st July 2002	2002/1475
Section 39	1st July 2002	2002/1475
Section 41	1st July 2002	2002/1475
Section 42	1st July 2002	2002/1475
Section 43	1st July 2002	2002/1475
Section 49	3rd December 2001 (partially)	2001/3807
Section 50	8th November 2001 (partially) 19th December 2001 (remainder)	2001/3752 and 2001/3807
Section 51	8th November 2001	2001/3752
Section 52	8th November 2001	2001/3752
Section 67	1st July 2002 (partially)	2002/1475
Schedule 2	1st July 2002	2002/1475
Schedule 3	1st July 2002	2002/1475

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<i>Provision</i>	<i>Date of commencement</i>	<i>S.I. No.</i>
Schedule 5	1st July 2002 (partially)	<a href="#">2002/1475</a>
Schedule 6	1st July 2002 (partially)	<a href="#">2002/1475</a>

Various provisions of the 2001 Act have been brought into force in relation to England by the following Statutory Instruments: S.I. [2001/2804](#), S.I. [2001/3167](#), S.I. [2001/3294](#), S.I. [2001/3619](#), S.I. [2001/3752](#), S.I. [2001/3738](#), S.I. [2001/4149](#), S.I. [2002/1095](#) (as amended by S.I. [2002/1170](#)) and S.I. [2002/1312](#).