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STATUTORY INSTRUMENTS

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**2005 No. 6**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Retained Organs Commission (Abolition) Order 2005**

*Made* - - - - *7th January 2005*  
*Laid before Parliament* *10th January 2005*  
*Coming into force* - - *1st February 2005*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 11(1) and (2) and 126(3) and (4) 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, application and interpretation**

1.—(1) This Order may be cited as the Retained Organs Commission (Abolition) Order 2005 and comes into force on the 1<sup>st</sup> February 2005.

(2) This Order applies to England only.

(3) In this Order—

“the Commission” means the Retained Organs Commission established by the Retained Organs Commission (Establishment and Constitution) Order 2001(2);

“the Secretary of State” means the Secretary of State for Health.

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(1) 1977 c. 49; section 11 was amended by section 2(1) of, and paragraph 2 of Schedule 1 to, the Health Authorities Act 1995 (c. 17) (“the 1995 Act”) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c. 8) (“the 1999 Act”). Section 126(3) was amended by section 41(10) and paragraph 27 of Schedule 2 to the National Health Service (Primary Care) Act 1997 (c. 46) and section 65(2) of the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”); section 126(4) was amended by section 65(2) of the 1990 Act, section 65(1) of, and paragraphs 4 and 37(1) and (6) of Schedule 4 to, the 1999 Act, section 67(1) of, and paragraphs 5(1) and (13)(b) of Schedule 5 to, the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), sections 6(3)(c) and 37(1) of, and paragraphs 1 and 10(a) of Schedule 8 to, the 2002 Act and section 184 of, and paragraph 38 of Schedule 11 and Part 4 of Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (“the 2003 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 Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; see the entry in Schedule 1 for the National Health Service Act 1977 as amended by section 66(4) and (5)(a) of the 1999 Act, section 67(1) of, and paragraph 12(1) and (3) of Schedule 5 to the 2001 Act and section 196 of, and Part 4 of Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

(2) S.I.2001/743 as amended by S.I 2001/1813.

### **Abolition of the Commission and revocation of Orders and Regulations**

2. The Commission is abolished and accordingly the Orders and Regulations in Schedule 1 are revoked.

### **Consequential Amendment of Orders and Regulations**

3. The amendments in Schedule 2 are made in consequence of the abolition of the Commission.

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

4.—(1) A complaint made under the Health Service Commissioners Act 1993(3) to the Health Service Commissioner for England in relation to the Commission, whether made before, on or after the coming into force of this Order, may be investigated by the Commissioner notwithstanding the abolition of the Commission .

(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 Secretary of State.

### **Enforceability of rights and transfer of liabilities**

5.—(1) Any right arising from the exercise of functions under the Secretary of State's Directions to the Commission listed in paragraph (3) that immediately before 1<sup>st</sup> February 2005 was enforceable by or against the Commission is transferred to the Secretary of State.

(2) Any liability arising from the exercise of functions under those Directions that was immediately before 1<sup>st</sup> February 2005 enforceable against the Commission is transferred to the Secretary of State.

(3) The Directions referred to in paragraphs (1) and (2) are those dated—

- (a) 11th April and 18th October 2001;
- (b) 14th May 2002;
- (c) 31st March 2004.

Signed by authority of the Secretary of State for Health

7th January 2005

*Rosie Winterton*  
Minister of State,  
Department of Health

## SCHEDULE 1

Article 2

### INSTRUMENTS REVOKED

Retained Organs Commission (Establishment and Constitution) Order 2001;  
Retained Organs Commission (Establishment and Constitution) Amendment Order 2001<sup>(4)</sup>;  
Retained Organs Commission Regulations 2001<sup>(5)</sup>;  
Retained Organs Commission (Amendment) Regulations 2002<sup>(6)</sup>.

## SCHEDULE 2

Article 3

### AMENDMENTS CONSEQUENTIAL ON THE ABOLITION OF THE COMMISSION

#### *The Health Authorities (Membership and Procedure) Regulations 1996*

1. In Schedule 2 to the Health Authorities (Membership and Procedure) Regulations 1996<sup>(7)</sup> “Retained Organs Commission” is deleted.

#### *The Primary Care Trusts (Membership and Procedure and Administration Arrangements) Regulations 2000*

2. In Schedule 1 to the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000<sup>(8)</sup> “Retained Organs Commission” is deleted.

#### *The Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2003*

3. In the Schedule to the Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2003<sup>(9)</sup> “Retained Organs Commission” is deleted.

#### *The Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003*

4. In Schedule 1 to the Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003<sup>(10)</sup> “Retained Organs Commission” is deleted.

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(4) S.I.2001/1813.

(5) S.I.2001/748 as amended by S.I.2002/34.

(6) S.I. 2002/34.

(7) S.I. 1996/707; relevant amending instrument S.I. 2001/751.

(8) S.I.2000/89; relevant amending instrument S.I.2002/38.

(9) S.I.2003/983.

(10) S.I. 2003/1324.

**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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## EXPLANATORY NOTE

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

This Order abolishes on 1<sup>st</sup> February 2005, the Retained Organs Commission (“the Commission”) a Special Health Authority established under section 11 of the National Health Service Act 1977 by the Retained Organs Commission (Establishment and Constitution) Order 2001.

The Order also makes provision for the investigation of complaints against the Commission by the Health Service Commissioner (article 4) and for the transfer of rights and liabilities of the Commission to the Secretary of State (article 5).

The Order revokes the Orders and Regulations specified in Schedule 1 (article 2) and makes the consequential amendments referred to in Schedule 2 (article 3).

The Directions referred to in article 5(3) may be inspected at the Department of Health Wellington House 135 -155 Waterloo Road London SE1 8UG.