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STATUTORY INSTRUMENTS

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**2008 No. 1147 (C. 50)**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND SCOTLAND  
SOCIAL CARE, ENGLAND**

**The Health Act 2006 (Commencement No. 4) Order 2008**

*Made* - - - - *21st April 2008*

The Secretary of State for Health makes this Order in exercise of the powers conferred by section 83(7) and (8) of the Health Act 2006(1).

**Citation and interpretation**

1.—(1) This Order may be cited as the Health Act 2006 (Commencement No.4) Order 2008.

(2) In this Order references to sections and Parts are references to sections and Parts of the Health Act 2006.

**Appointed day for provision relating to transitional provision in respect of persons providing general ophthalmic services**

2. 1st May 2008 is the day appointed for the coming into force of section 43.

**Appointed days for provisions relating to the protection of NHS from fraud and other unlawful activities**

3. 22nd April 2008 is the day appointed for the coming into force of—

- (a) Chapter 3 of Part 4, except so far as it relates to the Welsh Ministers' counter fraud functions in relation to the health service in Wales(2) or to offences committed in relation to those functions, so far as it has not already been brought into force(3);

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(1) [2006 c.28](#).

(2) In relation to Wales, Chapter 3 of Part 4 was, by virtue of section 8(5) of the National Health Service (Consequential Provisions) Act 2006 ([c.43](#)) and section 208(4) of the National Health Service (Wales) Act 2006 ([c.42](#)), repealed and re-enacted as Part 10 of the National Health Service (Wales) Act 2006 immediately after the coming into force of that Chapter. The functions conferred on the National Assembly for Wales by that Chapter were transferred to the Welsh Ministers by paragraph 30(2) of Schedule 11 to the Government of Wales Act 2006 ([c.32](#)).

(3) Section 83(1)(e) of the Act commenced the provisions of Chapter 3 of Part 4 in so far as they confer powers to make regulations or define any expression relevant to the exercise of such powers; to the extent that those provisions are in force, they have been repealed by Schedule 4 to the National Health Service (Consequential Provisions) Act 2006 and re-enacted as provisions of Part 10 of the National Health Service Act 2006.

- (b) sections 76 to 78 in so far as they relate to offences under Chapter 3 of Part 4, except so far as they relate to the Welsh Ministers' counter fraud functions in relation to the health service in Wales or to offences committed in relation to those functions; and
- (c) sections 76 and 77, in relation to England and Scotland, and section 78, in relation to England, so far as they relate to offences under Chapter 1 of Part 3 (including offences created in regulations under that chapter).

**Appointed day for provision relating to exercise by Special Health Authority of social care training functions**

- 4. 28th April 2008 is the day appointed for the coming into force of section 72.

Signed by the authority of the Secretary of State for Health.

21st April 2008

*Ann Keen*  
Parliamentary Under-Secretary of State,  
Department for Health

## EXPLANATORY NOTE

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

This Order is the fourth commencement order under the Health Act 2006 (c.28) (“the 2006 Act”).

Article 2 commences section 43 of the 2006 Act. This section requires the Secretary of State to make some transitional provisions in relation to the coming into force of section 38 of the 2006 Act and gives him power to make other ones.

Article 3(a) commences Chapter 3 of Part 4 of the 2006 Act in relation to England. This Chapter contains provisions relating to the protection of the NHS from fraud and other unlawful activities. In particular it provides the Secretary of State with the power to serve notices requiring the production of documents that relate to the Secretary of State’s NHS counter-fraud functions and security management functions. Once brought into force, the provisions will be repealed and re-enacted as the provisions of Part 10 of the National Health Service Act 2006 (c. 41).

Article 3(b) commences sections 76 to 78 of the 2006 Act in relation to offences under Chapter 3 of Part 4 of the 2006 Act in relation to England. Sections 76 and 77 make provision relating to circumstances where offences under Chapter 3 of Part 4 are committed by a body corporate or a partnership or other unincorporated association. Section 78 contains transitional modifications in respect of the penalties for offences under the 2006 Act committed in England and Wales, until the commencement of sections 154(1) and 281(5) of the Criminal Justice Act 2003 (c.44), which increase the maximum terms of imprisonment which may be imposed by the magistrates’ courts.

Article 3(c) commences sections 76 and 77 of the 2006 Act in relation to England and Scotland and section 78 of the 2006 Act in relation to England, so far as they relate to offences under Chapter 1 of Part 3. Chapter 1 of Part 3 contains provisions relating to the supervision of the management and the use of controlled drugs.

Article 4 commences section 72 of the 2006 Act. This section extends the powers of the Secretary of State to enable him to direct a Special Health Authority to carry out a function that relates to the training of social care workers.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1 to 3, 5 (other than section 5(4) and 10 to 12	2.4.2007 (in relation to Wales) and 1.7.2007 (in relation to England)	2007/204 2007/1375
Section 4	1.7.2007 (in relation to England)	2007/1375
Section 5(4)	2.4.2007 (in relation to Wales) 1.7.2007 (in relation to England, Scotland and Northern Ireland)	2007/204 2007/1375
Section 9	1.7.2007 (in relation to England)	2007/1375
Sections 10 to 12	2.4.2007 (in relation to Wales) and	2007/204

	1.7.2007 (in relation to England)	2007/1375
Section 13	1.7.2007	2007/1375
Sections 14 to 16	1.10.2006	2006/2603
Sections 17 to 25	1.1.2007 (partially) and 1.3.2007 (in relation to Scotland)	2006/3125
Section 33	1.10. 2006	2006/2603
Sections 34 and 35	28.2.2007 (partially)	2006/3125
Sections 44 to 55	1.2.2007 (in relation to Wales)	2007/204
Section 56	1.10.2006 (partially) 1.2.2007 (in relation to Wales)	2006/2603
		2007/204
Section 57	1.10.2006	2006/2603
Sections 58 to 62	28.9.2006 (partially) and 1.10.206 (remainder)	2006/2603
Sections 63 to 69	1.10.2006	2006/2603
Section 70	28.9.2006 (partially) and 1.10.2006 (remainder)	2006/2603
Section 71	28.9.2006 (partially) and 1.10. 2006 (remainder)	2006/2603
Section 73	29.1.2007 (partially)	2006/3125
	29.1.2007	SSI 2007/9
Sections 76 to 77	1.2.2007 (in relation to Wales – partially) and	2007/204
	2.4.2007 (in relation to Wales – partially)	
Section 78	2.4.2007 (in relation to Wales – partially)	2007/204
Section 80(1)	1.10.2006 (partially)	2006/2603
	29.1.2007 (in relation to Scotland – partially)	SSI 2007/9
		2007/204
	1.2.2007 (in relation to Wales – partially)	
Section 80(2)	1.10.2006 (partially)	2006/2603
	1.2.2007 (in relation to Wales – partially)	2007/204
Schedules 1 and 2	2.4.2007 (in relation to Wales) and	2007/204
	1.7.2007 (in relation to England)	2007/1375

Schedule 3	1.10.2006 (partially)	2006/2603
	1.2.2007 (in relation to Wales)	2007/204
Schedule 4	1.10.2006	2006/2603
Schedules 5 and 6	28.9.2006 (partially) and	2006/2603
	1.10.2006 (remainder)	
Schedule 7	1.10.2006	2006/2603
Schedule 8		
paragraphs 1 to 5	1.10.2006	2006/2603
paragraph 24(a)	1.10.2006 (partially)	2006/2603
	1.2.2007 (in relation to Wales – partially)	2007/204
paragraphs 26 to 28	1.10.2006 (partially)	2006/2603
paragraph 31	1.10.2006	2006/2603
paragraph 35	1.10.2006	2006/2603
paragraphs 39 to 42	1.10.2006 (partially)	2006/2603
paragraph 43	1.2.2007 (in relation to Wales – partially)	2007/204
paragraph 44	1.10.2006 (partially)	2006/2603
	1.2.2007 (in relation to Wales – partially)	2007/204
paragraph 45(1)	1.10.2006 (partially)	2006/2603
paragraph 45(3)	1.10.2006	2006/2603
paragraphs 47 and 48	1.10.2006	2006/2603
paragraph 49	1.10.2006 (partially)	2006/2603
paragraphs 51 and 52	1.10.2006	2006/2603
paragraph 55	29.1.2007 (in relation to Scotland)	SSI 2007/9
paragraphs 56 to 61	1.10.2006	2006/2603
paragraph 62	1.2.2007 (in relation to Wales – partially)	2007/204
Schedule 9	1.10.2006 (partially)	2006/2603
	1.2.2007 (in relation to Wales – partially)	2007/204