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WELSH STATUTORY INSTRUMENTS

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**2000 No. 2993 (W. 193 )**

**NATIONAL HEALTH SERVICE, WALES  
LOCAL GOVERNMENT, WALES**

**The National Health Service Bodies and Local Authorities  
Partnership Arrangements (Wales) Regulations 2000**

*Made* - - - - 7 November 2000  
*Coming into force* - - 1 December 2000

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State by section 126(4) of the National Health Service Act 1977<sup>(1)</sup> and section 31 of the Health Act 1999<sup>(2)</sup> and of all other powers enabling the Secretary of State in that behalf, and now vested in the National Assembly for Wales<sup>(3)</sup>:-

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000 and shall come into force on 1st December 2000.

(2) These Regulations shall apply to Wales only.

**Interpretation**

2.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Health Act 1999;

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

“health improvement plan” (“*cynllun gwella iechyd*”) means a plan which a Health Authority is required to prepare under section 28 of the Act;

“health-related functions” (“*swyddogaethau sy'n gysylltiedig ag iechyd*”) means the functions of local authorities prescribed under regulation 6;

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(1) 1977 c. 49; section 126(4) applies by virtue of section 62 (4) of the Health Act 1999 and was amended by the National Health Service and Community Care Act 1990 (c. 19), section 65 (2) and the Health Act 1999, Schedule 4, paragraph 37 (5).  
(2) 1999 c. 8; see section 31 (8) for the definition of “prescribed”.  
(3) 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 the National Assembly for Wales (Transfer of Functions) Order 1999, SI 1999/672, as amended by section 66 (4) and (5) of the 1999 Act.

- “local authority” (“*awdurdod lleol*”) means a body to which regulation 3(2) applies;
- “National Health Service body” (“*corff Gwasanaeth Iechyd Gwladol*”) means a body to which regulation 3(1) applies;
- “NHS contract” (“*contract Gwasanaeth Iechyd Gwladol*”) has the meaning given in section 4(1) of the National Health Service and Community Care Act 1990(4);
- “National Health Service functions” (“*swyddogaethau'r Gwasanaeth Iechyd Gwladol*”) means the functions of National Health Service bodies prescribed under regulation 5;
- “partners” (“*partneriaid*”), in relation to partnership arrangements, means one or more National Health Service bodies and one or more local authorities; and
- “partnership arrangements” (“*trefniadau partneriaeth*”) means the arrangements prescribed under regulations 7, 8 and 9.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference to a numbered paragraph is a reference to a paragraph bearing that number in that regulation.

### **Prescribed National Health Service bodies and local authorities**

3.—(1) The National Health Service bodies prescribed for the purposes of section 31 of the Act are —

- (a) a Health Authority(5); and
- (b) a National Health Service Trust(6).

(2) The local authorities prescribed for the purposes of section 31 of the Act are —

- (a) a county council; and
- (b) a county borough council.

### **Partnership arrangements between National Health Service bodies and local authorities**

4.—(1) Subject to paragraphs (2) and (3), the partners may enter into any partnership arrangements in relation to the exercise of any —

- (a) National Health Service functions, and
- (b) health-related functions,

if the partnership arrangements are likely to lead to an improvement in the way in which those functions are exercised.

(2) The partners may not enter into any partnership arrangements unless they have consulted jointly such persons as appear to them to be affected by such arrangements.

(3) The partners may not enter into any partnership arrangements which do not fulfil the objectives set out in the health improvement plan of the Health Authority in whose area the arrangements are to operate.

### **Functions of National Health Service bodies**

5. The National Health Service functions are —

- (a) the function of providing, or making arrangements for the provision of, services —

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(4) 1990 c. 19

(5) See section 8 of the National Health Service Act 1977 as amended by section 1 (1) of the Health Authorities Act 1995 (c. 17) and paragraph 5 of Schedule 4 to the Health Act 1999.

(6) See section 5 of the National Health Service and Community Care Act 1990 as amended by paragraph 69 of Schedule 1 to the Health Authorities Act 1995 and section 13 (1) of the Health Act 1999.

- (i) under sections 2 and 3(1) of the 1977 Act, including rehabilitation services and services intended to avoid admission to hospital but excluding surgery, radiotherapy, termination of pregnancies, endoscopy, the use of Class 4 laser treatments<sup>(7)</sup> and other invasive treatments and emergency ambulance services; and
  - (ii) under section 5(1), (1A) and (1B) of, and Schedule 1 to, the 1977 Act **(8)**; and
- (b) the functions under sections 25A to 25H and 117 of the Mental Health Act 1983<sup>(9)</sup>.

### Health-related functions of local authorities

6. The health-related functions are –
- (a) the functions specified in Schedule 1 to the Local Authorities Social Services Act 1970<sup>(10)</sup> except for functions under –
    - (i) sections 22, 23(3), 26(2) to (4), 43, 45 and 49 of the National Assistance Act 1948<sup>(11)</sup>;
    - (ii) sections 6 and 7B of the Local Authorities Social Services Act 1970;
    - (iii) sections 1 and 2 of the Adoption Act 1976<sup>(12)</sup>;
    - (iv) sections 114 and 115 of the Mental Health Act 1983;
    - (v) the Registered Homes Act 1984<sup>(13)</sup>; and
    - (vi) Parts VII to X and section 86 of the Children Act 1989<sup>(14)</sup>;
  - (b) the functions under sections 5, 7 or 8 of the Disabled Persons (Services, Consultation and Representation) Act 1986<sup>(15)</sup> except in so far as they assign functions to a local authority in their capacity of a local education authority;
  - (c) the functions of providing, or securing the provision of recreational facilities under section 19 of the Local Government (Miscellaneous Provisions) Act 1976<sup>(16)</sup>;
  - (d) the functions of local education authorities under the Education Acts as defined in section 578 of the Education Act 1996<sup>(17)</sup>;

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(7) See BS EN 60825-1:1994 Safety Laser Products. Class 4 laser products are defined by reference to ‘British Standards’ which is published by the British Standards Institution (“BSI”) and may be obtained from BSI, Linford Woods, Milton Keynes, MK 14 6LT.

(8) Section 5 (1) was amended by, and section 5 (1A) and (1B) were inserted by, the Health and Medicines Act 1988 (c. 49), section 10 (1); Schedule 1 was amended by the Education Act 1981 (c. 60), Schedule 3, paragraph 13; the Education Reform Act 1988 (c. 40), Schedule 12, Part 1, paragraph 21, and the Health and Medicines Act 1988, Schedule 2, paragraph 7.

(9) 1983 c. 20.

(10) 1970 (c. 42); Schedule 1 was amended (by repeal, substitution or insertion of entries) by the following: section 78 of, and Schedule 7 to, the Charities Act 1992 (c. 42); section 78 of, and Schedules 2 and 3 to, the Public Health (Control of Disease) Act 1984 (c. 22); the Statute Law (Repeals) Act 1978 (c. 45); the Statute Law (Repeals) Act 1993 (c. 50); section 73(3) of, and Schedule 4 to, the Adoption Act 1976 (c. 36); section 57 of, and Schedule 5 to, the National Health Service Reorganisation Act 1973 (c. 32); section 148 of, and Schedule 4 to, the Mental Health Act 1983 (c. 20); section 108 (5) of, and Schedules 13 and 15 to, the Children Act 1989 (c. 41); section 89(2) of, and Schedules 2 and 3 to, the Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22); section 54 of, and Schedules 2 and 3 to, the Matrimonial Causes Act 1973 (c. 18); section 35 (2) and (3) of, and Schedules 7 and 8 to, the Supplementary Benefits Act 1976 (c. 71); section 129 of, and Schedule 16 to, the National Health Service Act 1977 (c. 49); section 66(1) of, and Schedule 9 to, the National Health Service and Community Care Act 1990 (c. 19); section 20 (1) of, and Schedule 4 to, the Social Security Act 1980 (c. 30); sections 3 and 4 of, and Schedules 1 and 2 to, the Housing (Consequential Provisions) Act 1985 (c. 71); section 57 of, and Schedule 1 to, the Registered Homes Act 1984 (c. 23); section 216 (3) of, and Schedule 17 to, the Housing Act 1996 (c. 52); section 582(1) and (2) of, and Schedules 37 and 38 to, the Education Act 1996 (c. 56); section 1(7) of the Carers (Recognition and Services) Act 1995 (c. 12); section 3(1) and (3) of the Community Care (Direct Payments) Act 1996 (c. 30); and section 15 (1) of, and Schedule 2 to, the Adoption (Intercountry Aspects) Act 1999 (c. 18).

(11) 1948 c. 29.

(12) 1976 c. 36.

(13) 1984 c. 23.

(14) 1989 c. 41.

(15) 1986 c. 33; see Local Authority Social Services (Designation of Functions) Order 1989 (SI 1989/222).

(16) 1976 c. 57.

(17) 1996 c. 56.

- (e) the functions of local housing authorities under Part I of the Housing Grants, Construction and Regeneration Act 1996<sup>(18)</sup>; and under Parts VI and VII of the Housing Act 1996<sup>(19)</sup>;
- (f) the functions of local authorities under section 126 of the Housing Grants, Construction and Regeneration Act 1996;
- (g) the functions of waste collection or waste disposal under the Environmental Protection Act 1990<sup>(20)</sup>;
- (h) the functions of providing environmental health services under sections 180 and 181 of the Local Government Act 1972<sup>(21)</sup>;
- (i) the functions of local highway authorities under the Highways Act 1980<sup>(22)</sup> and section 39 of the Road Traffic Act 1988<sup>(23)</sup>; and
- (j) the functions under section 63 (passenger transport) and section 93 (travel concession schemes) of the Transport Act 1985<sup>(24)</sup>.

### **Pooled fund arrangements**

7.—(1) Subject to the following provisions of this regulation, the partners may enter into arrangements for or in connection with the establishment and maintenance of a fund (“pooled fund arrangements”) which is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any National Health Service functions or health-related functions.

(2) A partner which is a National Health Service trust may not enter into pooled fund arrangements with a partner which is a local authority unless it obtains the consent of each Health Authority with which it has an NHS contract for the provision of services for persons in respect of whom the functions which are the subject of the pooled fund arrangements may be exercised.

(3) Where the partners have decided to enter into pooled fund arrangements the agreement must be in writing and must specify —

- (a) the agreed aims and outcomes of the pooled fund arrangements;
- (b) the contributions to be made to the pooled fund by each of the partners and how those contributions may be varied;
- (c) both the National Health Service functions and the health-related functions the exercise of which are the subject of the arrangements;
- (d) the persons in respect of whom and the kinds of services in respect of which the functions referred to in sub-paragraph (c) may be exercised;
- (e) the staff, goods, services or accommodation to be provided by the partners in connection with the arrangements;
- (f) the duration of the arrangements and provision for the review or variation or termination of the arrangements; and
- (g) how the pooled fund is to be managed and monitored including which partner is to be the host partner in accordance with paragraph (4).

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<sup>(18)</sup> 1996 c. 53.

<sup>(19)</sup> 1996 c. 52.

<sup>(20)</sup> 1990 c. 43.

<sup>(21)</sup> 1972 c. 70.

<sup>(22)</sup> 1980 c. 66.

<sup>(23)</sup> 1988 c. 52.

<sup>(24)</sup> 1985 c. 67.

(4) The partners shall agree that one of them (“the host partner”) will be responsible for the accounts and audit of the pooled fund arrangements and the host partner shall appoint an officer of theirs (“the pool manager”) to be responsible for —

- (a) managing the pooled fund on their behalf; and
- (b) submitting to the partners quarterly reports, and an annual return, about the income of, and expenditure from, the pooled fund and other information by which the partners can monitor the effectiveness of the pooled fund arrangements.

(5) The partners may agree that an officer of either may exercise both the National Health Service functions and health-related functions which are the subject of the pooled fund arrangements.

(6) The host partner shall arrange for the audit of the accounts of the pooled fund arrangements and shall require the Audit Commission to make arrangements to certify an annual return of those accounts under section 28(1)(d) of the Audit Commission Act 1998(25).

### **Exercise of functions by a National Health Service body**

8.—(1) Subject to the following provisions of this regulation, the partners may enter into arrangements for the exercise by National Health Service bodies of health-related functions in conjunction with the exercise by such bodies of their National Health Service functions.

(2) Where the partners have decided to enter into arrangements under paragraph (1) the agreement must be in writing and must specify —

- (a) the agreed aims and outcomes of the arrangements;
- (b) the payments to be made by local authorities to the National Health Service bodies and how those payments may be varied;
- (c) the health-related functions and National Health Service functions the exercise of which are the subject of the arrangements;
- (d) the persons in respect of whom and the kinds of services in respect of which the functions referred to in sub-paragraph (c) may be exercised;
- (e) the staff, goods, services or accommodation to be provided by the partners in connection with the arrangements;
- (f) the duration of the arrangements and provision for the review or variation or termination of the arrangements; and
- (g) the arrangements in place for monitoring the exercise by the National Health Service bodies of the functions referred to in sub-paragraph (c).

(3) The National Health Service bodies shall report to the local authorities, both quarterly and annually, on the exercise of the health-related functions which are the subject of the arrangements.

### **Exercise of functions by local authorities**

9.—(1) Subject to the following provisions of this regulation, the partners may enter into arrangements for the exercise by local authorities of National Health Service functions in conjunction with the exercise by such authorities of their health-related functions.

(2) A partner which is a National Health Service trust may not enter into arrangements under paragraph (1) unless it obtains the consent of each Health Authority with which the trust has an NHS contract for the provision of services for persons in respect of whom the functions which are the subject of the arrangements may be exercised.

(3) Where the partners have decided to enter into arrangements under paragraph (1) the agreement must be in writing and must specify —

- (a) the agreed aims and outcomes of the arrangements;
- (b) the payments to be made by the National Health Service bodies to the local authorities and how those payments may be varied;
- (c) the National Health Service functions and the health-related functions the exercise of which are the subject of the arrangements;
- (d) the persons in respect of whom and the kinds of services in respect of which the functions referred to in sub-paragraph (c) may be exercised;
- (e) the staff, goods, services or accommodation to be provided by the partners in connection with the arrangements;
- (f) the duration of the arrangements and provision for the review or variation or termination of the arrangements; and
- (g) the arrangements in place for monitoring the exercise by the local authorities of the functions referred to in sub-paragraph (c).

(4) The local authorities shall report to the National Health Service bodies, both quarterly and annually, on the exercise of the National Health Service functions which are the subject of the arrangements.

### **Supplementary**

**10.**—(1) In connection with any partnership arrangements a partner may agree to provide staff, goods, services or accommodation to another partner.

(2) Partners may form a joint committee to take responsibility for the management of partnership arrangements including monitoring the arrangements and receiving reports and information on the operation of the arrangements.

(3) Without prejudice to any complaints procedures under the Hospital Complaints Procedures Act 1985<sup>(26)</sup> or under section 7B of the Local Authorities Social Services Act 1970 or otherwise, where partners have formed a joint committee under paragraph (2) in respect of partnership arrangements they may agree that a sub-committee, or a member of the joint committee, may consider complaints about the partnership arrangements if the complaints are made by or on behalf of users of services provided under the partnership arrangements.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(27)</sup>.

7th November 2000

*D Elis Thomas*  
The Presiding Officer of the National Assembly

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<sup>(26)</sup> 1985 c. 42.

<sup>(27)</sup> 1998 c. 38.

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## EXPLANATORY NOTE

*(This note does not form part of the Regulations)*

These Regulations make provision for certain National Health Service bodies and local authorities to enter into arrangements (“partnership arrangements”) for the exercise of specified functions.

Regulation 3 prescribes the National Health Service bodies and local authorities (“the partners”) which may enter into the arrangements.

Regulation 4 sets out the conditions which must be satisfied before the partners may enter the partnership arrangements. Regulations 5 and 6 prescribe the NHS functions and the health-related local authority functions which may be the subject of partnership arrangements.

The Regulations also define the nature of the partnership arrangements. They provide for the establishment of a fund made up of contributions from the partners out of which payments may be made towards expenditure incurred in the exercise of their functions; for the exercise by National Health Service bodies of local authority functions and for the exercise by local authorities of National Health Service functions; and require the partners to set out the terms of the arrangements in writing (regulations 7, 8 and 9).

Regulation 10 makes supplementary provisions.