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WELSH STATUTORY INSTRUMENTS

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**2003 No. 813 (W.98)**

**NATIONAL HEALTH SERVICE, WALES**

**The Health Authorities (Transfer of Functions, Staff, Property, Rights and Liabilities and Abolition) (Wales) Order 2003**

*Made* - - - - *19th March 2003*

*Coming into force* - - *1st April 2003*

The National Assembly for Wales, in exercise of the powers conferred by sections 27(1), (3), (5)(a), (8), (9) and 154(1) of the Government of Wales Act 1998(1), makes the following Order —

**Title, commencement and application**

1.—(1) This Order may be cited as the Health Authorities (Transfer of Functions, Staff, Property, Rights and Liabilities and Abolition) (Wales) Order 2003 and shall come into force on 1st April 2003.

(2) This Order applies to Wales only.

**Interpretation**

2. In this Order —

“EES employee” means a person whose contract of employment has been transferred to Powys Local Health Board(2) under the Extended Employment Scheme pursuant to article 5;

“Extended Employment Scheme” means a scheme which provides for the employment by the Powys Local Health Board, for a period not exceeding 12 months commencing on the transfer date, of persons whose contracts of employment are transferred to the Powys Local Health Board pursuant to article 5;

“relevant employee” (“*cyflogai perthnasol*”) means a person —

- (a) whose contract of employment with a Welsh health authority has not terminated before the transfer date (whether by expiry of notice, effluxion of time or otherwise); and
- (b) who has been offered and has accepted before the transfer date employment with the National Assembly for Wales;

“residual employee” (“*cyflogai gweddilliol*”) means a person —

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(1) 1998 c. 38.

(2) The Powys Local Health Board is established by order under section 16BA of the National Health Service Act 1977 (c. 49) — see the Local Health Boards (Establishment)(Wales) Order 2003 (S.I. 2003/148, W.18).

- (a) whose contract of employment with a Welsh health authority has not terminated before the transfer date (whether by expiry of notice, effluxion of time or otherwise); and
- (b) who has not been offered or has not accepted before the transfer date employment with the National Assembly for Wales or any Local Health Board<sup>(3)</sup> (other than the Powys Local Health Board under the Extended Employment Scheme).

“transfer date” (“*y dyddiad trosglwyddo*”) means 1st April 2003; and

“Welsh health authority” (“*awdurdod iechyd Cymreig*”) means a health authority established by the Health Authorities (Wales) Establishment Order 1996<sup>(4)</sup>, and which is listed in the Schedule to this Order

### **Transfer of functions of Welsh health authorities to the National Assembly for Wales**

3. With effect from the transfer date, all the functions of each Welsh health authority with respect to the whole of the area for which each such authority acts are transferred to the National Assembly for Wales.

### **Transfer of relevant employees to the National Assembly for Wales**

4. With effect from the transfer date, a contract of employment between a relevant employee and a Welsh health authority shall be treated as if it had originally been made between the relevant employee and the National Assembly for Wales.

### **Transfer of residual employees to Powys Local Health Board under the Extended Employment Scheme**

5. With effect from the transfer date, a contract of employment between a residual employee of a Welsh health authority shall be treated as if it were a contract of employment for a fixed term made originally between the residual employee and the Powys Local Health Board.

### **Transfer of EES employees under the Extended Employment Scheme**

6.—(1) Paragraph (2) applies to an EES employee whose contract of employment has not terminated (whether by expiry of notice, effluxion of time or otherwise).

(2) During the period of twelve months following the transfer date, a contract of employment between an EES employee to whom paragraph (1) applies and the Powys Local Health Board shall, if such employee has been offered and has accepted employment with —

- (a) any Local Health Board (other than the Powys Local Health Board under the Extended Employment Scheme); or
- (b) the National Assembly for Wales,

be treated as if it had originally been made between the EES employee and such Local Health Board or the National Assembly for Wales.

### **Abolition of Welsh Health Authorities**

7. With effect from the transfer date, each of the Welsh health authorities is abolished.

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(3) Local Health Boards are established by order under section 16BA of the National Health Service Act 1977 (c. 49) — see the Local Health Boards (Establishment)(Wales) Order 2003 (S.I. 2003/148, W.18).

(4) S.I. 1996 No.146.

### **Transfer of property, rights and liabilities of Welsh health authorities**

8. With effect from the transfer date, any property, rights or liabilities of a Welsh health authority which are not transferred to a Local Health Board by virtue of the Local Health Boards (Transfer of Property, Rights and Liabilities) (Wales) Order 2003(5) shall be transferred to the National Assembly for Wales.

### **Consequential revocation of the Health Authorities (Wales) Establishment Order 1996**

9. The Health Authorities (Wales) Establishment Order 1996 shall be revoked with effect from the transfer date.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998.

19th March 2003

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

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## SCHEDULE

Article 2

The Welsh health authorities to which this Order applies are —

Bro Tâf  
 Dyfed Powys  
 Gwent  
 Morgannwg  
 North Wales Gogledd Cymru

**EXPLANATORY NOTE**

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

Under section 27(1) of the Government of Wales Act 1998 (1998 c. 38), the National Assembly for Wales has the power to transfer to itself by order any or all of the functions of a Welsh health authority. Under section 27(5)(a) of the 1998 Act, where an order provides for the transfer of all of the functions of a health authority with respect to the whole of the area for which that authority acts, the Assembly may abolish that authority.

Under section 27(8) of the 1998 Act, the Assembly may make provision for the transfer of staff, property, rights and liabilities of a Welsh health authority.

The strategy document “*Improving Health in Wales*” published by the National Assembly for Wales in February 2001 signalled the intention to abolish the five existing health authorities in Wales with effect from 31st March 2003, and to delegate their functions to Local Health Boards (“LHBs”).

This Order transfers all the functions of the five Welsh health authorities to the Assembly, and abolishes all five authorities. It also effects the transfer of certain of the staff employed by health authorities either to the Assembly directly, or under the Extended Employment Scheme (“EES”) to the Powys Local Health Board. During the period of 12 months after the transfer date, those staff who have transferred to the Powys LHB under the EES but have not found other employment, may be transferred to posts in a Local Health Board or the Assembly if they are offered and accept a post.

The Order also makes provision for the transfer to the National Assembly for Wales of any property, rights and liabilities not specifically transferred to Local Health Boards.

The functions transferred to the Assembly under this Order will (subject to any exceptions) be delegated to LHBs by regulations made under section 16BB of the National Health Service Act 1977 (1977 c. 49), as inserted by section 6 of the National Health Service Reform and Healthcare Professions Act 2002 (2002 c. 17). For the extent of functions delegated to LHBs, see the Local Health Boards (Functions) (Wales) Regulations 2003 (S.I.2003/150, W.20).

LHBs will be established by order made under section 16BA of the 1977 Act, as inserted by section 6 of the 2002 Act (see the Local Health Boards (Establishment) (Wales) Order 2003 (S.I. 2003/148, W.18).