
STATUTORY INSTRUMENTS

1998 No. 631 (C.12)

**MEDICAL PROFESSION
NATIONAL HEALTH SERVICE,
ENGLAND AND WALES
NATIONAL HEALTH SERVICE, SCOTLAND**

The National Health Service (Primary Care)
Act 1997 (Commencement No. 4) Order 1998

Made - - - - 9th March 1998

The Secretary of State, in exercise of powers conferred on him by section 41(3) and (4) of the National Health Service (Primary Care) Act 1997⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:—

Citation and interpretation

1.—(1) This Order may be cited as the National Health Service (Primary Care) Act 1997 (Commencement No. 4) Order 1998.

(2) In this Order, “the Act” means the National Health Service (Primary Care) Act 1997.

Appointed days

2.—(1) 1st April 1998 is the day appointed for the coming into force (subject to articles 3, 4 and 5) of—

- (a) the provisions of the Act specified in column (1) of Schedule 1 to this Order, either fully or, if an extent is so specified, to that extent (the subject matter of each provision being mentioned in column (2) of that Schedule); and
- (b) the provisions of Part I of Schedule 2 to the Act (minor and consequential amendments) specified in column (1) of Schedule 2 to this Order, either fully or, if an extent is specified in column (2) of that Schedule, to that extent.

(2) 11th May 1998 is the day appointed for the coming into force of section 16 of the Act (NHS contracts) in so far as it is not already in force.

(1) 1997 c. 46.

References to certain terms

3.—(1) This article applies to the following enactments—

- (a) a provision of the Act brought into force pursuant to article 2(a); and
- (b) a provision of another Act, as amended, inserted or replaced by a provision of the Act brought into force pursuant to article 2(b).

(2) Where an enactment to which this article applies refers to arrangements made under section 28C of the 1977 Act or to arrangements made under section 17C of the 1978 Act (however that reference is worded), such a reference is to be taken as referring only to a pilot scheme under Part I of the Act under which personal medical services are to be provided, and the purpose of bringing the provision of the Act in question into force is limited accordingly.

(3) Where an enactment falling within paragraph (1)(b) would refer to “personal dental services” if the provision of the Act effecting the amendment, insertion or replacement were fully in force, that provision of the Act is brought into force pursuant to article 2(b) only so far as to effect the amendment, insertion or replacement with the omission of the reference to personal dental services; and the purpose of bringing that provision of the Act into force is limited accordingly.

(4) Provisions of the Act brought into force for the limited purpose referred to in paragraph (3) are marked with an asterisk in Schedule 2.

Transitional provision

4.—(1) Until sections 32 and 33 of the Act are brought into force, paragraphs 1(2)(c) and 2(2) and (4) of Schedule 1 to the Act shall be treated as if they read as provided in this article.

(2) Paragraph 1(2)(c) shall be treated as reading as follows—

“(c) an application made by him for inclusion in the authority’s medical list has not, since then, been granted under section 30 of the 1977 Act or (as the case may be) section 20 of the 1978 Act.”.

(3) Paragraph 2(2) shall be treated as reading as follows—

“(2) Where the authority are under a duty under sub-paragraph (1) in relation to the applicant, neither sections 30 and 33 of the 1977 Act nor (as the case may be) sections 20 and 23 of the 1978 Act applies in relation to him.”.

(4) Paragraph 2(4) shall be treated as reading as follows—

“(4) For the purposes of this paragraph, a person is not eligible for inclusion in a medical list if—

- (a) he has attained the age specified in regulations under section 8 of the Health and Medicines Act 1988 (retirement age for practitioners); or
- (b) he is disqualified, or treated as disqualified, from inclusion in the list by virtue of a direction of the Tribunal constituted under section 46 of the 1977 Act or under section 29 of the 1978 Act, or any corresponding tribunal in Northern Ireland.”.

Saving

5. Notwithstanding the bringing into force by article 2(a) of the repeal of certain words in section 97A(9)(c)(i) of the National Health Service Act 1977⁽²⁾, and by article 2(b) of paragraphs 22 and 23 of Schedule 2 to the Act, in relation to—

- (a) expenditure of Health Authorities in respect of a financial year ending on 31st March 1998 or before; and

(2) 1977 c. 49.

(b) amounts allotted to Health Authorities in respect of such a financial year, sections 97 and 97A of the National Health Service Act 1977⁽³⁾ shall continue to have effect as if this Order had not been made.

9th March 1998

Frank Dobson
One of Her Majesty's Principal Secretaries of
State,
Department of Health

(3) Sections 97 and 97A were substituted by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraphs 47 and 48 respectively.

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

SCHEDULE 1

Article 2(a)

PROVISIONS OF THE ACT COMING INTO FORCE
(SUBJECT TO ARTICLES 3 AND 4) ON 1ST APRIL 1998

Column (1) <i>Provision of the Act</i>	Column (2) <i>Subject Matter</i>
Section 5 (in so far as it is not already in force)	Approval of pilot schemes
Section 6 (in so far as it is not already in force)	Making of pilot schemes
Section 7 (in so far as it relates to pilot schemes under which personal medical services are provided)	Reviews of pilot schemes
Section 8 (in so far as it relates to pilot schemes under which personal medical services are provided)	Variation and termination of pilot schemes
Section 9(3) (in so far as it relates to pilot schemes under which personal medical services are provided)	Functions under the National Health Service and Community Care Act 1990
Section 11	Medical practitioners to be suitably experienced
Section 12	Leaving medical lists
Section 13(2) and (9)	Preferential treatment on transferring to medical lists
Section 15	Liabilities and obligations in relation to deputies
Section 18 (in so far as it is not already in force)	Funding of preparatory work
Section 19	Fund-holding practices
Section 23	Right to choose a medical practitioner
Section 29	Authorised provision of pharmaceutical services by medical practitioners
Section 34	Sale of medical practices
Section 35	Employment of pre-registration house officers
Section 37	Expenditure of Health Boards
Section 41(10) (in so far as it relates to the provisions of Part I of Schedule 2 to the Act mentioned in Schedule 2 to this Order)	Introduction of Part I of Schedule 2
Section 41(12) (in so far as it relates to the provisions of Schedule 3 to the Act mentioned below)	Introduction of Schedule 3
Schedule 1	Preferential treatment on transferring to medical lists
In Schedule 3—	Repeals and revocations

Column (1) <i>Provision of the Act</i>	Column (2) <i>Subject Matter</i>
in Part I, the repeals relating to— section 29(2) and section 97A(9)(c)(i) of, and Schedule 10 to, the National Health Service Act 1977, section 19(2) of, and Schedule 9 to, the National Health Service (Scotland) Act 1978, section 12(1)(c) of the National Health Service and Community Care Act 1990, and paragraphs 6(c) and 36 of Schedule 1 to the Health Authorities Act 1995.	

SCHEDULE 2

Article 2(b)

EXTENT TO WHICH PROVISIONS OF PART I OF SCHEDULE 2 TO THE ACT COME INTO FORCE (SUBJECT TO ARTICLES 3 AND 5) ON 1ST APRIL 1998

Column (1) <i>Provision of Part I of Schedule 2</i>	Column (2) <i>Extent to which it is to come into force</i>
Paragraphs 1* and 2*	
Paragraph 3	So far as it relates to any of paragraphs 4 to 31 already in force or brought into force by this Order.
Paragraphs 4, 5*, 6, 7 and 8	
Paragraph 21	To the extent that it relates to pilot schemes under which personal medical services are provided.
Paragraphs 22, 23, 24, 25 and 26	
Paragraph 28	For the purpose only of inserting the definition of “section 28C arrangements”.
Paragraphs 29, 30 and 31	
Paragraph 32	So far as it relates to any of paragraphs 33 to 60 already in force or brought into force by this Order.
Paragraphs 35*, 36, 37, 38*, 39, 53 and 54	
Paragraph 57	For the purpose only of inserting the definition of “section 17C arrangements”.
Paragraphs 58, 59 and 60	
Paragraphs 61 and 63*	

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Column (1) <i>Provision of Part I of Schedule 2</i>	Column (2) <i>Extent to which it is to come into force</i>
Paragraph 64	Sub-paragraphs (2) and (4), and sub-paragraph (1) so far as it relates to those sub-paragraphs.
Paragraph 65	Sub-paragraphs (1) and (4) to (11).
Paragraphs 66, 67* and 68*	

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force certain provisions of the National Health Service (Primary Care) Act 1997 (“the Act”).

Provisions which are brought into force on 1st April 1998 relate to the provision of personal dental services under a pilot scheme, approval and making of pilot schemes, reviews of pilot schemes, and variation and termination of pilot schemes. Provisions relating to the experience required of doctors performing personal medical services, the circumstances in which doctors must leave medical lists in order to perform personal medical services, and liabilities and obligations in relation to deputies are also brought into force. Further provisions which are brought into force concern the right to choose a doctor, provision of pharmaceutical services by doctors, sale of medical practices, and employment of pre-registration house officers in medical practices. New provision relating to the expenditure of Health Boards is also brought into force.

Section 16 of the Act (which relates to NHS contracts) is brought into force (in so far as it is not already in force) on 11th May 1998.

Provisions which are brought into force in the Schedules to the Act relate to preferential treatment for doctors who transfer from a pilot scheme to a medical list, make minor and consequential amendments to existing legislation, and repeal or revoke certain provisions.

The Order makes transitional provision until such time as sections 32 and 33 of the Act (which relate to medical lists and vacancies for general practitioners) are brought into force. It also includes a saving provision in respect of amendments to section 97A of the National Health Service Act 1977 (which relates to the financial duties of Health Authorities).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.1	28.11.97	1997/2620
s.2	28.11.97	1997/2620

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
s.4 (partially)	22.8.97	
(remainder)	30.10.97	1997/17801997/2620
s.5 (partially)	28.11.97	1997/2620
s.6 (partially)	28.11.97	1997/2620
s.9(1) and (2)	15.8.97	1997/1780
s.10	15.8.97	1997/1780
s.13(1) and (3) to (8)	15.8.97	1997/1780
s.16 (partially)	30.10.97	1997/2620
s.18(1), (2) (partially) and (3)	15.8.97	1997/1780
s.18(2) (partially)	28.11.97	1997/2620
s.27	15.8.97	1997/1780
s.28	15.8.97	1997/1780
s.30	15.8.97	1997/1780
s.31	1.9.97	1997/1780
s.36	14.10.97	1997/2457
s.41(10) (partially)	15.8.97	1997/1780
In Part I of Schedule 2, paragraphs 13, 14, 20, 27, 44, 45 and 51	15.8.97	1997/1780