
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 Once brought into force, the provisions will be repealed and re-enacted as the provisions of Part 10 of the National Health Service Act 2006 (c. 41).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.