
EXPLANATORY NOTE

(This note is not part of the Order)

Part 1 of this Order brings into force on 1st April 2010 provisions of the Health and Social Care Act 2008 (“the Act”) relating to funding of expenditure on community pharmaceutical services provided as part of the National Health Service in England. The principal changes are: firstly, that funding for community pharmaceutical services that previously had been held centrally will become part of the allocations given to Primary Care Trusts; and secondly, the Secretary of State is given powers to designate any element of the remuneration paid by Primary Care Trusts for community pharmaceutical services which is not referable to the cost of drugs. Designation is a mechanism which allows the Secretary of State to control the way the funding of a designated element is apportioned between Primary Care Trusts.

Part 2 of this Order brings into force on 1st April 2010 the provisions of the Act relating to responsible officers (except in relation to Northern Ireland). A new Part is inserted into the Medical Act 1983⁽¹⁾, under which regulations may be made which will require designated bodies to appoint or nominate persons who will have specified powers and responsibilities in relation to medical practitioners. The responsibilities may include matters such as evaluation of medical practitioners’ fitness to practise and the powers may include matters such as requiring the provision of information. In relation to England and Wales, there are a range of additional responsibilities that may be conferred on responsible officers that include being able to take appropriate action where concerns about conduct or performance are raised. Also in relation to England and Wales, powers are brought into force on 1st April 2010 allowing for the making of regulations conferring new duties of co-operation on prescribed bodies in connection with the sharing and provision of information about the conduct or performance of health care workers (and related matters).

Part 3 of this Order brings into force on 1st April 2010 and 1st August 2010 provisions relating to the dissolution of the Hearing Aid Council. Responsibility for the regulation of private hearing aid dispensers is transferring to the Health Professions Council, and there is a consequential amendment to legislation relating to the auditing of public bodies.

Part 4 of this Order brings into force on 6th April 2010 certain provisions of the Act which amend the Public Health (Control of Disease) Act 1984. These include revised and expanded powers to make health protection regulations, both with regard to the spread of infection or contamination from international travel, and with regard to domestic provision for protecting against, or responding to, infection or contamination. There are new powers for justices of the peace to make orders requiring health protection measures to be taken in relation to persons, things or premises. Justices of the peace will also be able to direct any action that might be appropriate to give effect to their orders. There are also modified rights of entry and enforcement arrangements relating to health protection measures. Some consequential amendments are made to secondary legislation, there is a disapplication of a provision in the Magistrates’ Courts Act 1980 and there are a number of transitional and saving provisions, primarily in relation to the notice requirements under the pre-existing legislation.

Part 5 of this Order brings into force on 19th April 2010 section 148 of the Act, which relates to ordinary residence for the purposes of certain provisions of the National Assistance Act 1948 (“the 1948 Act”) and the Chronically Sick and Disabled Persons Act 1970 (“the 1970 Act”). Under the current arrangements, a patient at a National Health Service (NHS) hospital is treated for the purposes of the provision of residential accommodation under Part 3 of the 1948 Act as being ordinarily resident in the area in which the patient was ordinarily resident before being admitted

(1) 1983 c.54.

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to hospital. Section 148(1) of the Act extends this deeming provision so that it also applies to people who are provided with accommodation by the NHS at places other than NHS hospitals – and there are transitional provisions for some existing patients. In addition, section 148(2) amends section 32 of the 1948 Act to provide that disputes as to a person’s ordinary residence arising under the 1948 Act are to be determined by the Secretary of State or the Welsh Ministers, in accordance with arrangements that they must make and publish. Section 148(3) amends section 2 of the 1970 Act to provide that disputes under that Act as to a person’s ordinary residence are to be referred to the Secretary of State for determination. There is a transitional provision to prevent any 1970 Act disputes which before the appointed day were already the subject of court proceedings being referred under the new arrangements.

Part 6 of this Order brings into force on 1st April 2010 sections 45 and 139 of the Act. Section 45 concerns the preparation and publication of standards by the Secretary of State in relation to the provision of NHS care. Section 139 inserts a new section 23A into the National Health Service Act 2006, which imposes a duty on Primary Care Trusts in relation to arrangements for improving the quality of health care. It also commences consequential amendments and repeals in Schedules 5 and 15 of the Act that relate to the commencement of sections 45 and 139. Part 6 also amends article 13 of, and Schedule 2 to, the Health and Social Care Act 2008 (Commencement No.9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009. It amends the expiry date of the transitory modification made to section 10 of the Health Protection Agency Act 2004⁽²⁾ from 31st March 2010 to 30th September 2010 and changes the expiry date of the transitional provisions relating to functions under the Care Standards Act 2000⁽³⁾ to 30th September 2010.

(2) 2004 c. 17.
(3) 2000 c. 14.