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WELSH STATUTORY INSTRUMENTS

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**2000 No. 999**

**The Health Act 1999 (Fund-holding Practices)  
(Transfer of Assets, Savings, Rights and Liabilities  
and Transitional Provisions) (Wales) Order 2000**

**PART VI**

*SAVING PROVISIONS*

**Investigation of complaints by Health Service Commissioner**

**11.** A complaint made to the Health Service Commissioner for Wales under the Health Service Commissioners Act 1993(1) in relation to the former members of a fund-holding practice whether made before or after the repeal of the fund-holding provisions may be investigated, or if not disposed of, shall continue to be investigated by that Commissioner in accordance with that Act as though section 3(1B) of that Act still had effect.

**Investigation of other complaints**

**12.** The procedure to investigate complaints established and operated under paragraph 47A of Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(2) shall apply in relation to any complaint about the use of the allotted sum by the former members of the fund-holding practice, whether a complaint was made before, on or after the date this Order comes into force, and notwithstanding the repeal of the fund-holding provisions the former members of the fund-holding practice shall cooperate with the investigation of the complaint by the Health Authority as required by paragraph 47B of Schedule 2 to those Regulations.

**Recovery of contribution to allotted sum**

**13.** Where, before 1st April 2000, a Health Authority was entitled to recover a portion of a payment from another Health Authority under section 15(4) of the 1990 Act(3), notwithstanding the repeal of the fund-holding provisions that Health Authority shall be entitled to recover such an amount in accordance with that section and any directions given by the National Assembly; and for the purposes of such recovery section 15(4) of the 1990 Act shall continue to apply as if it had not been repealed.

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(1) The Health Service Commissioners Act 1993 (c. 46) ("the 1993 Act"), as amended by the Health Service Commissioners (Amendment) Act 1996 (c. 5). Reference to section 3(1B) of the 1993 Act was omitted by the Health Act 1999, section 65(1) and Schedule 4, paragraph 85 as brought into force by the Health Act 1999 (Commencement No. 2) (Wales) Order 2000 (S.I. 2000/1026 (W.62)(c.26)).

(2) S.I. 1992/635. Paragraphs 47A and 47B were inserted by S.I. 1996/702, regulation 5.

(3) Section 15(4) of the 1990 Act was substituted by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 74(d) and amended by the National Health Service (Primary Care) Act 1997, Schedule 2, paragraph 65(5).

### **Variation and determination of allotted sum**

14.—(1) The procedure for varying a proposed allotted sum under paragraphs (4A) to (4C) of regulation 18 of the 1996 Regulations<sup>(4)</sup> shall notwithstanding the repeal of the fund-holding provisions be applied to the proposed allotted sum for the financial year 1999-2000.

(2) The procedure for determining an allotted sum under paragraph (5) and (6) of regulation 18 of the 1996 Regulations<sup>(5)</sup> shall be applied to the varied allotted sum for the financial year 1999-2000, notwithstanding the repeal of the fund-holding provisions.

(3) For the purposes of paragraphs (1) and (2), paragraph (4A) to (6) of regulation 18 of the 1996 Regulations shall continue to apply as though the fund-holding provisions had not been repealed.

### **Outstanding applications relating to savings**

15.—(1) Any applications made before 1st April 2000 to the Health Authority to apply the allotted sum for a purpose specified in regulation 25(2) of the 1996 Regulations shall notwithstanding the repeal of the fund-holding provisions be determined by the Health Authority, and that determination be subject to the right of appeal, in accordance with regulation 25<sup>(6)</sup>.

(2) Any appeal made before 1st April 2000 to the National Assembly, or where the right to appeal to the National Assembly arises on or after 1st April 2000, against the Health Authority's refusal to consent to the application of any part of the allotted sum for a purpose specified in regulation 25(2) of the 1996 Regulations shall notwithstanding the repeal of the fund-holding provisions be determined by the National Assembly in accordance with regulation 25.

(3) For the purposes of paragraphs (1) and (2), paragraphs (3) to (7) of regulation 25 of the 1996 Regulations shall continue to apply as though the fund-holding provisions had not been repealed.

### **Recovery of misapplied sums**

16.—(1) Notwithstanding the repeal of the fund-holding provisions, the National Assembly may on or after 1st April 2000 apply the procedure in regulation 26 of the 1996 Regulations<sup>(7)</sup> to determine whether any part of the allotted sum has been misapplied by the former members of a fund-holding practice and the Health Authority may recover in accordance with that regulation any sum found to have been applied and regulation 26 of the 1996 Regulations shall apply to such determinations and recoveries as though the fund-holding provisions had not been repealed.

(2) Paragraph (1) shall apply whether or not the procedures to determine whether a sum had been misapplied or to recover such a sum had been begun before 1st April 2000.

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(4) Paragraphs (4A) to (4C) were inserted by [S.I. 1997/1678](#), regulation 3(2).

(5) Paragraph (5) was amended by, and paragraph (6) was inserted by, [S.I. 1997/1678](#), regulation 3, paragraphs (3) and (4) respectively.

(6) Regulation 25 was amended by [S.I. 1997/747](#), [1997/1678](#), [1998/693](#) and [1999/261](#).

(7) Regulation 26 of the 1996 Regulations was amended by [S.I. 1999/261](#), regulation 24.