WELSH STATUTORY INSTRUMENTS

# 2008 No. 936 (W.96)

# THE NATIONAL HEALTH SERVICE, WALES

## The Pembrokeshire and Derwen National Health Service Trust (Transfer of Staff, Property, Rights and Liabilities) Order 2008

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| *Made - - - -* | *28 March 2008* |
| *Coming into force - -* | *1 April 2008* |

The Welsh Ministers in exercise of powers conferred by section 203(9) and (10) and paragraph 29 of Schedule 3 to the National Health Service (Wales) Act 2006(**1**) after completion of consultation as prescribed under paragraph 29(4) of that Act(**2**), hereby make this Order.

**Title, Commencement and Interpretation**

**1.**—(1) The title of this Order is the Pembrokeshire and Derwen National Health Service Trust (Transfer of Staff, Property, Rights and Liabilities) Order 2008 and it comes into force on 1 April 2008.

(2) In this Order unless the context otherwise requires:

"new trust" ("*ymddiriedolaeth newydd*") means the Hywel Dda National Health Service Trust established on 12 March 2008.

"old trust" ("*hen ymddiriedolaeth*") means Pembrokeshire and Derwen National Health Service Trust established on 1 April 1997;

"transfer date" ("*dyddiad trosglwyddo*") means the 1 April 2008.

**Transfer of employees to the transferee**

**2.**—(1) Subject to paragraph (3), any person who immediately before the transfer date, was employed by the old trust shall have his or her contract of employment transferred to the new trust on the transfer date and that contract will have effect as if originally made between the person so employed and the new trust.

(2) Without prejudice to paragraph (1) above —

(**1**) 2006. c.42.

(**2**) National Health Service Trusts (Consultation on Establishment and Dissolution) Regulations 1996, S.I.1996/653, which continue to have effect by virtue of paragraph 1(2) of Schedule 2 to the National Health Service (Consequential Provisions) Act 2006. c.43.

(a) all the rights, powers, duties and liabilities under or in connection with a contract to which that paragraph applies will, by virtue of this article, be transferred to the new trust on the transfer date;

(b) anything done before that date by, or in relation to, the old trust in respect of that contract or that employee, will be deemed from the transfer date to have been done by, or in relation to, the new trust.

(3) Paragraphs (1) and (2) are without prejudice to any right of any employee to terminate his or her contract of employment if a substantial change is made to his or her detriment in his or her working conditions, but no such right arises by reason only of the change in employer effected by this article.

**Transfer of property, rights and liabilities**

**3.** On the transfer date all the property, rights and liabilities of the old trust, not referred to in article 2 above, are transferred to the new trust, including without limitation—

(a) the duty to prepare the outstanding accounts of the old trust and to perform all statutory duties relating to those accounts;

(b) the trust property of the old trust listed in Schedule 1;

(c) the charities of the old trust listed in Schedule 2.

**Transfer of functions of the old trust to the new trust**

**4.** With effect from the transfer date, all the functions of the old trust are transferred to the new trust.

*Edwina Hart*
Minister for Health and Social Services, one of
the Welsh Ministers

28 March 2008