WELSH STATUTORY INSTRUMENTS

2004 No. 480 (W.49) (C.19)

NATIONAL HEALTH SERVICE, WALES

The Health and Social Care (Community Health and Standards) Act 2003 (Commencement No. 1) (Wales) Order 2004

Made - - - - 26th February 2004

The National Assembly for Wales, in exercise of the powers conferred on it by section 195(1)(b) and 199(1) of the Health and Social Care (Community Health and Standards) Act 2003(**1**), hereby makes the following Order:

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Health and Social Care (Community Health and Standards) Act 2003 (Commencement No 1) (Wales) Order 2004.

(2) Articles 6 and 7 which make transitional provision shall come into force immediately after the commencement of articles 4 and 5.

(3) In this Order—

"the Act" means the Health and Social Care (Community Health and Standards) Act 2003;

"the 1977 Act" means the National Health Service Act 1977(**2**);

"the 1997 Act" means the National Health Service (Primary Care) Act 1997(**3**); and

"the 2001 Act" means the Health and Social Care Act 2001(**4**).

(4) This Order applies to Wales only.

Appointed days for provisions relating to primary medical services

2.—(1) 28th February 2004 is the appointed day for the coming into force of the following provisions of the Act—

(a) section 179(1) as it relates to new section 28X(1) and (3) to (7) of the 1977 Act and section 179(2);

(**1**) 2003 c. 43.
(**2**) 1977 c. 49.
(**3**) 1997 c. 46.
(**4**) 2001 c. 15.

(b) for the purposes of making regulations, paragraph 23 of Schedule 11 to the extent that it inserts section 45A(9) of the 1977 Act and section 184 and paragraph 7 of that Schedule in so far as they relate to those paragraphs; and

(c) in Schedule 11, paragraph 38 and paragraph 39 in so far as it inserts the definition of "primary medical services" into section 128(1) the 1977 Act and section 184 and paragraph 7 of that Schedule as they relate to those paragraphs.

(d) section 174 in so far as it relates to new section 16CC(2) and (4) of the 1977 Act;

(e) section 180 in so far as it relates to the new section 28Y of the 1977 Act and primary medical services; and

(f) paragraph 8 of Schedule 11 and section 184 and paragraph 7 of that Schedule in so far as they relate to that paragraph.

(2) 1st April 2004 is the appointed day for the coming into force of section 174 in so far as it relates to new section 16CC(1), of the 1977 Act in so far as it is not in force and in so far as it relates to section 16CC (3), (5) and (6) and of section 175(2).

Appointed days for provisions relating to the general medical services contract

3.—(1) 28th February 2004 is the day appointed for the coming into force of the following provisions of the Act—

(a) section 175;

(b) section 176; and

(c) paragraph 39 of Schedule 11 in so far as it inserts the definition of "general medical services contract" into section 128(1) the 1977 Act and section 184 and paragraph 7 of that Schedule in so far as they relate to that paragraph.

Consequential amendments relating to primary medical services and general medical services coming into force on 1st April 2004

4.—(1) 1st April 2004 is the day appointed for the coming into force of the provisions of Schedule 11 to the Act referred to in paragraph (2) and Section 184 in so far as it relates to those provisions and in so far as are not in force.

(2) In schedule 11—

(a) paragraph 1;

(b) paragraph 2 in so far as it relates to the provisions commenced by paragraph (iii) and (iv) below;

(c) paragraph 3(2)(a) and (3) to (5) and 3(1) in so far as it relates to those provisions,

(d) paragraphs 4 to 6;

(e) paragraph 7 in so far as it relates to the provisions commenced by sub-paragraphs (f) to (q) below and in so far they are not in force;

(f) paragraph 9;

(g) paragraph 10;

(h) paragraph 13;

(i) paragraph 20 in so far as it omits section 43D(10)(a) of the 1977 Act;

(j) paragraph 21(2), 21(3) in so far as it omits section 44 (A1) and (B1) of the 1977 Act, 21(4) and 21(5) in so far as it omits section 44(3)(a) and (b) and paragraph 21(1) in so far as it relates to those provisions;

(k) paragraph 22(2), 22(3)(a), (5)(b) and (7) to (9) and paragraph 22(1) in so far as it relates to those provisions;

(l) paragraph 22(8)(b) and (9) and paragraph 22(1) in so far as it relates to those provisions;

(m) paragraph 23 in so far as it inserts new sections 45A and 45B into the 1977 Act;

(n) paragraph 24(a);

(o) paragraphs 25 to 27;

(p) paragraph 36(a);

(q) paragraph 37;

(r) paragraph 40;

(s) paragraph 41;

(t) paragraphs 42 to 44;

(u) paragraph 45 in relation to paragraphs 1(2)(b), 2(2)(a), 4(2)(aa) and 6B(2)(a) and 6B(2)(a) of Schedule 12A to the 1977 Act;

(v) paragraph 46(2)(a) and (3)(a) and paragraph 46(1) in so far as it relates to those provisions;

(w) paragraphs 47 to 49;

(x) paragraphs 51 and 52;

(y) paragraph 55 and 53 in so far as it relates to paragraph 55;

(z) paragraphs 56 to 59;

(aa) paragraphs 61, 62, 63 and 64 and paragraph 60 in so far as it relates to those provisions;

(bb) paragraphs 65 and 67(a);

(cc) paragraphs 70, 71 and 73 and paragraph 69 in so far as it relates to those provisions; and

(dd) paragraph 74.

Repeals relating to primary medical services and general medical services

5.—(1) 1st April 2004 is the day appointed for the coming into force of the provisions of Schedule 14 to the Act referred to in paragraph (2) and section 196 in so far as it relates to those enactments.

(2) In Schedule 14 to the Act the enactments or enactments specified below—

(a) the National Health Service (Amendment) Act 1949(**5**);

(b) the Health Services and Public Health Act 1968(**6**);

(c) the Patents Act 1977(**7**);

(d) the 1977 Act in so far as it relates to sections 3(3), 26(2)(a) and (4)(a), 28H, 28F, 29 to 34A, 43ZA(3)(a), 43C(3), 43D(1) and (10)(a), 44 (A1), (B1)) and (3)(a) to (b), 45(3), 49F(1)(a), 52, 53, 56(a), 102(1)(a)(iii) and (2)(b), 126(4) and 128(1) in so far as it relates to the definitions of "medical list", "personal medical services" and "terms of service", Schedule 7A, the words in paragraph 3(1)(g), and Schedule 12A in so far as it relates to paragraphs 6A and 6B;

(**5**) 1949 c. 93.
(**6**) 1968 c. 46.
(**7**) 1977 c. 37

(e) the Health and Social Services and Social Security Adjudications Act 1983(**8**) in so far as it relates to section 14(1) and Schedule 6, paragraph 2;

(f) the Medical Act 1983(**9**);

(g) the Copyright, Designs and Patents Act 1988(**10**);

(h) the Health and Medicines Act 1988(**11**) in relation to section 2(1)(a) and 8(1)(a) and section 17(1) in so far as it relates to section 29 of the 1977 Act;

(i) he National Health Service and Community Care Act 1990(**12**) in so far as it relates to sections 18(7) and 23;

(j) the Access to Health Records Act 1990(**13**);

(k) the Trade Union and Labour Relations (Consolidation) Act 1992(**14**);

(l) the Health Service Commissioners Act 1993(**15**) in so far as it relates to section 6(5);

(m) Health Authorities Act 1995(**16**) in so far as it relates to paragraphs 18 to 24;

(n) the Medical (Professional Performance) Act 1995(**17**);

(o) the Employment Rights Act 1996(**18**) in so far as it relates to section 43K(1)(c)(i);

(p) the 1997 Act in so far as it relates to Part 1, sections 25(1) and 32 and Schedule 1 and Schedule 2, paragraphs 8 to 11, 71, 80 and 81;

(q) the Health Act 1999(**19**) in so far as it relates to sections 9(2) and 11(2) in so far as it inserted section 44(A1) into the 1977 Act, Schedule 3, paragraph 11(3) and Schedule 4, paragraphs 2 and 17;

(r) the 2001 Act in so far as it relates to sections 15, 17 , 18, 20(2) and (3), 23(2) and 27(5) and Schedule 5, paragraph 11(3); and

(s) the National Health Service Reform and Health Care Professions Act 2002(**20**) in so far as it relates to sections 5(2) and (6)(b) and Schedule 2, paragraphs 3 to 8 and 72, Schedule 3, paragraphs 5, 6 and 10 and Schedule 8, paragraph 2.

Transitional provisions applying until the coming into force of section 172(1) of the Act

6.—(1) Until the coming into force of section 172(1) of the Act in relation to general dental services contracts, the following transitional provisions shall apply.

(2) In relation to the Health and Services and Public Health Act 1968—

(a) section 59 (extension of power of user by Crown of patented invention to user for certain health services) shall be read as if—

(i) in subsection (2), after the words “in the case of pharmaceutical services” there were inserted the words “and general dental services”,

(ii) in subsection (2A), the following words were inserted at the end—

(**8**) 1983 c. 41.
(**9**) 1983 c. 54.
(**10**) 1988 c. 48.
(**11**) 1988 c. 49.
(**12**) 1990 c. 19.
(**13**) 1990 c. 23.
(**14**) 1992 c. 52.
(**15**) 1993 c. 46.
(**16**) 1995 c. 17.
(**17**) 1995 c. 51.
(**18**) 1996 c. 18.
(**19**) 1999 c. 8.
(**20**) 2002 c. 17.

"and in the case of personal dental services shall also be construed as a reference to personal dental services under section 28C of the 1977 Act", and

(iii) in subsection (2C) the words "and primary dental services" were omitted in both places where they occur; and

(b) section 63(2) (provision of instruction of officers etc) shall be read as if —

(i) in paragraph (aa) the words "or primary dental service" were omitted, and

(ii) the following paragraph were inserted after paragraph (ba)—

"(bb) the provision or performance of personal dental services in accordance with arrangements made under section 28C of the 1977 Act;".

(3) In relation to the Patents Act 1977, section 56(4)(a) (interpretation etc. of provisions about Crown use) shall be read as if—

(a) after the words "in the case of pharmaceutical services" there were inserted the words "and general dental services";

(b) in sub-paragraph (ai) the words "or primary dental services" were omitted; and

(c) the following sub-paragraph were inserted after sub-paragraph (iv)—

"(v) personal dental services provided in accordance with arrangements made under section 28C of the 1977 Act;".

(4) In relation to the 1977 Act—

(a) in section 15(1)(a) (duty of Health Authority in relation to family health services) the reference to "primary dental services" shall be read as if it were a reference to "general dental services";

(b) section 18A(3) (provision of services etc) shall be read as if—

(i) in paragraph (a) the words "general dental" were inserted before the words "general ophthalmic,

(ii) in paragraph (b) the words "or primary dental services" were omitted, and

(iii) the following paragraph were inserted after paragraph (b)—

"(c) performing personal dental services under an agreement made under section 28C below,".

(c) section 26 (supply of goods and services by the Secretary of State) shall be read as if—

(i) in subsections (2)(a) and (4)(a) the words "general dental services" were inserted before the words "general ophthalmic services", and

(ii) in subsections (2)(b) and (4)(b) the words "or a general dental services contract" were omitted;

(d) section 28D shall be read as if—

(i) in subsection (1)—

(aa) in paragraph (bc)(i) the words "or general dental services contract" were omitted; and

(bb) in paragraph (bc)(iii) there were inserted after the word "under" "section 35 of this Act,"; and

(ii) in subsection (2) in the definition of "NHS employee"—

(aa) the words "or general dental services contract" were omitted; and

(bb) a new paragraph (cc) were inserted as follows—