WELSH STATUTORY INSTRUMENTS

2003 No. 473 (W.63)

NATIONAL HEALTH SERVICE, WALES

The Local Health Boards (Transfer of Property, Rights and Liabilities) (Wales) Order 2003

Made - - - -	*28th February 2003*
Coming into force - -	*1st April 2003*

The National Assembly for Wales, in exercise of the powers conferred by paragraphs 20 and 21 of Schedule 5B to the National Health Service Act 1977(**1**), and the property, rights and liabilities which are transferred by this Order having been identified by agreement between the health service authorities and Local Health Boards concerned pursuant to paragraph 20(2) of Schedule 5B to the 1977 Act, makes the following Order:

Title, commencement and application

1.—(1) The Order may be cited as the Local Health Boards (Transfer of Property, Rights and Liabilities) (Wales) Order 2003 and shall come into force on 1st April 2003.

(2) This Order applies to Wales only.

Interpretation

2.—(1) In this Order, unless the context otherwise requires —

"contents" ("*cynnwys*") shall mean any item or property of whatever description which is —

(a) the property of a health service authority immediately prior to the transfer date; and

(b) present in or on the land described in Schedule 2 on the transfer date,

including any vehicle or moveable property which is normally kept on such land when not in use;

"Health service authority"("*awdurdod gwasanaeth iechyd*") shall have the meaning given in section 20(5) of Schedule 5B to the National Health Service Act 1977;

"Land" ("*tir*") shall be construed in accordance with Schedule 1 to the Interpretation Act 1978, save that any reference to the transfer of land by virtue of this Order shall be construed as including the transfer of any contractual licence for the use of land;

(**1**) 1977 c. 49.

"the Powys NHS Trust" ("*Ymddiriedolaeth GIG Powys*") means the Powys Health Care National Health Service Trust established by Powys Health Care National Health Service Trust (Establishment) Order 1992(**2**);

"Records" ("*cofnodion*") means any material in whatever form or medium which conveys or is capable of conveying information and which is structured by reference to —

(a) individuals or to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible; or

(b) any property, rights or liabilities of a health service authority, in such a way that specific information relating to particular property, rights or liabilities is readily accessible;

"Shared computer system" ("*system gyfrifiadurol a rennir*") means computer equipment which operates as part of a single integrated computer system and which is, immediately before the transfer date, situated in or on more than one of the parcels of land specified in column 1 to Schedule 1 or column 1 to Schedule 2, and includes any information and software held on or in relation to such a system;

"Third parties" ("*trydydd partïon*") shall have the meaning given in section 20(4) of Schedule 5B to the National Health Service Act 1977;

"the transfer date" ("*y dyddiad trosglwyddo*") means 1st April 2003; and

"Welsh health authority" ("*awdurdod iechyd Cymreig*") means a health authority established under the Health Authorities (Wales) Establishment Order 1996(**3**).

(2) Any provision in this Order transferring property shall be construed, unless the context otherwise requires, as including a reference to the transfer of any rights and liabilities of a health service authority which exist in respect of such property immediately before the transfer date.

(3) Any reference in this Order to any rights or liabilities of a health service authority includes a reference to rights or liabilities acquired or incurred by any predecessor in title of such authority.

(4) Where property, rights or liabilities of a health service authority are transferred from a health service authority to a Local Health Board by virtue of this Order, anything done by or in relation to the health service authority in connection with such property, rights and liabilities shall be treated as if it had been done by or in relation to such Local Health Board.

Transfer of land of health service authorities to Local Health Boards

3. With effect from the transfer date the land described in column 1 of Schedule 1 shall be transferred from the health service authority specified in column 2 of that Schedule to the Local Health Board specified in column 3 of that Schedule.

Transfer of contents of land from health service authorities to Local Health Boards

4.—(1) Save for the exceptions set out in paragraph (2), with effect from the transfer date the contents in or on the land specified in column 1 of Schedule 2 shall be transferred from the health service authority specified in column 2 of that Schedule to the Local Health Board specified in column 3 of that Schedule.

(2) The exceptions to paragraph (1) are —

(a) any records; and

(b) any shared computer system.

(**2**) S.I. 1992/2741.
(**3**) S.I. 1996/146.

Transfer of Powys NHS Trust property, rights and liabilities to the Powys Local Health Board

5. With effect from the transfer date —

(a) the land of the Powys NHS Trust specified in Schedule 3; and

(b) all other property, rights and liabilities of the Powys NHS Trust

shall be transferred to the Powys Local Health Board.

Transfer of residuary property, rights and liabilities from Welsh health authorities to the Powys Local Health Board

6.—(1) This article applies to —

(a) records;

(b) shared computer systems;

(c) any property, rights or liabilities of a Welsh health authority which are not transferred by virtue of any other provision of this Order.

(2) All property, rights and liabilities to which paragraph (1) above applies shall on the transfer date be transferred from the Welsh health authorities to the Powys Local Health Board.

Determination of disputes between health service authorities

7.—(1) Where a dispute arises as a result of any of the transfers effected under this Order between two or more health service authorities, any one of those health service authorities may refer the dispute to the National Assembly for Wales for determination.

(2) Where a reference is made to the National Assembly for Wales under paragraph (1) above, the Assembly may determine the dispute itself or, if it considers it appropriate, appoint a person to determine the dispute on its behalf.

(3) By its determination of a reference under paragraph (1) above, the Assembly or, as the case may be, the person appointed under paragraph (2) above may resolve the dispute and impose binding terms upon the health service authorities involved in the dispute.

(4) A determination of a reference under paragraph (1) above may contain such conditions (including conditions as to payment) as the Assembly or, as the case may be, the person appointed under paragraph (2) above considers appropriate to resolve the matter in dispute.

Third party rights

8.—(1) Where a transfer by virtue of this Order of any property, rights or liabilities operates so as to affect adversely the rights of any third party, the following provisions of this article shall apply.

(2) The fact that any property, right or liability has been transferred by virtue of this Order is not of itself sufficient to establish that the rights of a third party have been adversely affected.

(3) Any dispute between a third party and a health service authority, shall be determined in accordance with the provisions of the Arbitration Act 1996(**4**) by a sole arbitrator appointed by agreement between the third party and the health service authority, or in default of such agreement, under paragraph (4).

(4) If the third party and the health service authority fail to agree on the appointment of an arbitrator under paragraph (3), either of them may apply to the President for the time being of the

(**4**) 1996 c. 23.

Chartered Institute of Arbitrators (**5**) to appoint an arbitrator to resolve the dispute between them in accordance with the Arbitration Act 1996.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**6**)

Mike German
Deputy First Minister, Minister for Rural Development and Wales Abroad

28th February 2003

(**5**) The Chartered Institute of Arbitrators may be contacted at the International Arbitration Centre, Bloomsbury Square, London, WC1A 2LP, telephone 020 7421 744 or e-mail info.@arbitrators.org.
(**6**) 1998 c. 38.

SCHEDULE 1

Article 3

Land to be transferred from health service authorities to Local Health Boards

Description of land and the title number (where applicable)	**Health service authority in which land is vested on 31st March 2003**	**Local Health Board to which the land is to be transferred on 1st April 2003**
Leasehold property at Churchill House Churchill Way Cardiff comprised in five leases	National Assembly for Wales	Powys Local Health Board
Rights of Occupation at Trenewydd Llandaff Cardiff	National Assembly for Wales	Cardiff Local Health Board
Leasehold premises at Units 17 — 18 and Units 6 and 16 Centre Court Treforest	National Assembly for Wales	Rhondda Cynon Taff Local Health Board
Leasehold premises at Triangle Business Park Merthyr	National Assembly for Wales	Merthyr Tydfil Local Health Board
Leasehold premises at 2 Stanwell Road Penarth	National Assembly for Wales	Vale Local Health Board
Rights of Occupation at St David’s Hospital Carmarthen	Dyfed Powys Health Authority	Powys Local Health Board
Leasehold Premises at Glanmor Terrace	National Assembly for Wales	Carmarthenshire Local Health Board