
STATUTORY INSTRUMENTS

2000 No. 179

NATIONAL HEALTH SERVICE, ENGLAND

**The Health Authorities Act 1995 (Rectification
of Transitional Arrangements) Order 2000**

<i>Made</i>	- - - -	<i>27th January 2000</i>
<i>Laid before Parliament</i>		<i>31st January 2000</i>
<i>Coming into force</i>	- -	<i>21st February 2000</i>

The Secretary of State for Health, in exercise of powers conferred by sections 44 and 63 of the Health Act 1999(1), hereby makes the following Order:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Health Authorities Act 1995 (Rectification of Transitional Arrangements) Order 2000 and shall come into force on 21st February 2000.

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

“the 1977 Act” means the National Health Service Act 1977(2);

“the 1995 Act” means the Health Authorities Act 1995(3);

“fund-holding practice” means a fund-holding practice recognised under sections 14 to 17 of the National Health Service and Community Care Act 1990(4) as they were in force before 1st October 1999;

“the Pharmaceutical Services Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(5);

“Transitional Provisions Order” means the Health Authorities Act 1995 (Transitional Provisions) Order 1996(6).

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- (1) 1999 c. 8. As regards Wales, the functions of the Secretary of State under sections 44 and 63 (except in so far as it relates to any of the provisions which, by virtue of section 66(2), may be brought into force by the National Assembly for Wales) of the 1999 Act, are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672; these Regulations therefore extend only to England.
- (2) 1997 c. 49.
- (3) 1995 c. 17.
- (4) 1990 c. 19. Sections 14 to 17 which made provision for fund-holding practices were repealed by the Health Act 1999, section 1.
- (5) S.I. 1992/662, to which there are amendments not relevant to these Regulations.
- (6) S.I. 1996/709, as amended by S.I. 1996/971 and 1996/2310.

Amendment of Transitional Provisions Order

2.—(1) With effect from 1st April 1996—

- (a) In Part III of Schedule 1 (relevant new authorities for old authorities whose districts or localities comprise or form part of the area of only one new authority) to the Transitional Provisions Order, the entries set out in Schedule 1 to this Order shall be omitted;
- (b) For Part III of Schedule 2 (relevant new authorities whose districts or localities comprise or form part of the area of more than one new authority) to the Transitional Provisions Order shall be substituted the entries set out in Schedule 2 to this Order, which include in particular, an entry for Bromley Family Health Services Authority.

(2) The Transitional Provisions Order shall be deemed always to have had effect as amended by this article.

Consequences of Rectification

3.—(1) Where, on or after 1st April 1996, as a result of any of the relevant defects, anything has been done by or in relation to an acting authority(7), or a person of any description identified by reference to an acting authority, it is to be treated, subject to paragraph (2), as though it had been done by or in relation to the proper authority(8), or a person of that description identified by reference to the proper authority.

(2) Where, on or after 1st April 1996, as a result of the relevant defects, any acting authority has made—

- (a) any payment to a Part II practitioner(9), or
- (b) any deduction from remuneration paid to a Part II practitioner,

the payment or deduction shall be treated as though it had been done by the acting authority in the exercise by them of the function on behalf of the proper authority.

(3) Where as a result of any of the relevant defects, an application in accordance with regulation 4(2), or a notification in accordance with regulation 4(10) of the Pharmaceutical Services Regulations, has been made to a Health Authority and as a result—

- (a) the application has been granted under regulation 4(3)(a) of those Regulations, or
- (b) the original application has been amended under regulation 4(10) of those Regulations.

but the premises at which the pharmaceutical services were originally, or were originally to be, provided and the premises at which the services are, or are to be, provided (“the new premises”) are not both in the area of that Health Authority, the application shall be deemed to have been granted in respect of the new premises, by the Health Authority in whose area the new premises are situated, in consequence of an application under regulation 4(2)(a) of those Regulations.

(4) Where—

- (a) on 1st April 1996, because of any of the relevant defects, a Part II practitioner was treated by virtue of the Transitional Provisions Order as included in a Part II list(10) (the “relevant list”),
- (b) by virtue of this order, he is treated as having been included on that date in one or more other Part II lists but not in the relevant list,
- (c) on or after that date, he provided services and a requirement of his providing those services was his inclusion in the relevant list, and

(7) “acting authority” shall be construed in accordance with section 44(7) of the Health Act 1999 (c. 8).

(8) “proper authority” shall be construed in accordance with section 44(7) of the Health Act 1999.

(9) “Part II practitioner” shall be construed in accordance with section 44(6) of the Health Act 1999.

(10) “Part II list” shall be construed in accordance with section 44(6) of the Health Act 1999.

(d) since 1st April 1996 he has neither been added to the relevant list in accordance with Regulations made pursuant to section 29 of the 1977 Act, nor removed from that list, the Part II practitioner shall be treated as having been included in the relevant list with effect from the date on which he first provided services as mentioned in sub-paragraph (c).

Outstanding court proceedings

4. Where immediately before the coming into force of this Order, any court proceedings were brought against an acting authority in relation to anything done by or in relation to that acting authority, and as a result of this Order, that action is to be treated as having been done by or in relation to the proper authority, the acting authority shall be treated as though they had acted on behalf of the proper authority.

Outstanding representations to Tribunal

5.—(1) Where before the coming into force of this Order, representations had been made to the Tribunal constituted under section 46 of the 1977 Act by an acting authority about a Part II practitioner on their Part II list, but the matter had not been finally disposed of on the date that this Order comes into force, the acting authority shall be treated as though they had acted on behalf of the proper authority, and shall continue to so act if the proper authority requests them to do so until the final disposal of the matter.

(2) Where the proper authority request the acting authority to continue to act on its behalf, the proper authority shall notify the Tribunal and the practitioner about whom representations had been made.

Exception for fund-holding practices

6. Where immediately before the coming into force of this Order, a Health Authority (not being the relevant Health Authority as defined by sections 15(1B) and (1C) of the 1977 Act⁽¹¹⁾ as they were in force before 1st October 1999) acted as the relevant Health Authority for a member or former member of a fund-holding practice as a result of any of the relevant defects, Article 3 shall not apply and they shall continue to be treated as the relevant Health Authority in connection with the application of any provision relating to a fund-holding practice.

Signed by authority of the Secretary of State

27th January 2000

John Denham
Minister of State
Department of Health

(11) Sections 15(1B) and (1C) of the 1977 Act were repealed by the Health Act 1999.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

article 2(1)

OMMISSIONS FROM PART III OF SCHEDULE I

Avon Family Health Services Authority	Avon Health Authority
Barking and Havering Family Health Services Authority	Barking and Havering Health Authority
Barnet Family Health Services Authority	Barnet Health Authority
Berkshire Family Health Services Authority	Berkshire Health Authority
Birmingham Family Health Services Authority	Birmingham Health Authority
Bolton Family Health Services Authority	Wigan & Bolton Health Authority
Brent and Harrow Family Health Services Authority	Brent & Harrow Health Authority
Buckinghamshire Family Health Services Authority	Buckinghamshire Health Authority
Camden and Islington Family Health Services Authority	Camden & Islington Health Authority
City & East London Family Health Services Authority	East London and The City Health Authority
Croydon Family Health Services Authority	Croydon Health Authority
Durham Family Health Services Authority	County Durham Health Authority
Ealing, Hammersmith and Hounslow Family Health Services Authority	Ealing, Hammersmith & Hounslow Health Authority
East Sussex Family Health Services Authority	East Sussex, Brighton and Hove Health Authority
Enfield and Haringey Family Health Services Authority	Enfield and Haringey Health Authority
Hillingdon Family Health Services Authority	Hillingdon Health Authority
Kensington Chelsea and Westminster Family Health Services Authority	Kensington & Chelsea and Westminster Health Authority
Lambeth, Southwark and Lewisham Family Health Services Authority	Lambeth, Southwark and Lewisham Health Authority
Leeds Family Health Services Authority	Leeds Health Authority
Leicestershire Family Health Services Authority	Leicestershire Health Authority
Liverpool Family Health Services Authority	Liverpool Health Authority
Manchester Family Health Services Authority	Manchester Health Authority
Merton, Sutton and Wandsworth Family Health Services Authority	Merton, Sutton and Wandsworth Family Health Services Authority
North Yorkshire Family Health Services Authority	North Yorkshire Health Authority

Redbridge and Waltham Forest Family Health Services Authority	Redbridge and Waltham Forest Health Authority
St Helens and Knowsley Family Health Services Authority	St Helens and Knowsley Health Authority
Sandwell Family Health Services Authority	Sandwell Health Authority
Sheffield Family Health Services Authority	Sheffield Health Authority
Shropshire Family Health Services Authority	Shropshire Health Authority
Solihull Family Health Services Authority	Solihull Health Authority
Suffolk Family Health Services Authority	Suffolk Health Authority
Wakefield Family Health Services Authority	Wakefield Health Authority
Walsall Family Health Services Authority	Walsall Health Authority
Warwickshire Family Health Services Authority	Warwickshire Health Authority
West Sussex Family Health Services Authority	West Sussex Health Authority
Wigan Family Health Services Authority	Wigan and Bolton Health Authority

SCHEDULE 2

article 2(1)

SUBSTITUTED PART III OF SCHEDULE 2

Avon Family Health Services Authority	Somerset Health Authority	Avon Health Authority
Barking and Havering Family Health Services Authority	Redbridge and Waltham Forest Health Authority	Barking & Havering Health Authority
Barnet Family Health Services Authority	Brent and Harrow Health Authority	Barnet Health Authority
	Enfield & Haringey Health Authority	
	West Hertfordshire Health Authority	
Berkshire Family Health Services Authority	Buckinghamshire Health Authority	Berkshire Health Authority
	North and Mid Hampshire Health Authority	
	Oxfordshire Health Authority	
Birmingham Family Health Services Authority	Sandwell Health Authority	Birmingham Health Authority
	Solihull Health Authority	

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	Worcestershire Health Authority	
Bolton Family Health Services Authority	Bury and Rochdale Health Authority	Wigan and Bolton Health Authority
Brent and Harrow Family Health Services Authority	Barnet Health Authority	Brent & Harrow Health Authority
	Camden & Islington Health Authority	
	Ealing, Hammersmith and Hounslow Health Authority	
	West Hertfordshire Health Authority	
Bromley Family Health Services Authority	Bexley and Greenwich Health Authority	Bromley Health Authority
	Lambeth, Southwark and Lewisham Health Authority	
Buckinghamshire Family Health Services Authority	Berkshire Health Authority	Buckinghamshire Health Authority
	West Hertfordshire Health Authority	
Cambridgeshire Family Health Services Authority	North West Anglia Health Authority	Cambridge and Huntingdon Health Authority
Camden and Islington Family Health Services Authority	Barnet Health Authority	Camden & Islington Health Authority
	Brent & Harrow Health Authority	
	Hillingdon Health Authority	
	East London and the City Health Authority	
	Enfield & Haringey Health Authority	
	Kensington & Chelsea and Westminster Health Authority	
Cheshire Family Health Services Authority	North Staffordshire Health Authority	North Cheshire Health Authority
	South Cheshire Health Authority	
City and East London Family Health Services Authority	Camden and Islington Health Authority	East London and The City Health Authority

	Enfield & Haringey Health Authority	
	Redbridge and Waltham Forest Health Authority	
Croydon Family Health Services Authority	Merton, Sutton and Wandsworth Health Authority	Croydon Health Authority
Cumbria Family Health Services Authority	Morecambe Bay Health Authority	North Cumbria Health Authority
Derbyshire Family Health Services Authority	North Derbyshire Health Authority	Southern Derbyshire Health Authority
	North Nottinghamshire Health Authority	
	West Pennine Health Authority	
Devon Family Health Services Authority	South and West Devon Health Authority	North and East Devon Health Authority
Durham Family Health Services Authority	Sunderland Health Authority	County Durham Health Authority
Ealing, Hammersmith and Hounslow Family Health Services Authority	Kensington & Chelsea and Westminster Health Authority	Ealing, Hammersmith & Hounslow Health Authority
	Kingston and Richmond Health Authority	
East Sussex Family Health Services Authority	West Sussex Health Authority	East Sussex, Brighton and Hove Health Authority
Enfield and Haringey Family Health Services Authority	Barnet Health Authority	Enfield & Haringey Health Authority
	Camden & Islington Health Authority	
	East London and the City Health Authority	
Essex Family Health Services Authority	East and North Hertfordshire Health Authority	North Essex Health Authority
	Redbridge and Waltham Forest Health Authority	
	South Essex Health Authority	
Hampshire Family Health Services Authority	Berkshire Health Authority	Southampton and South West Hampshire Health Authority
	North and Mid-Hampshire Health Authority	
	Portsmouth and South East Hampshire Health Authority	

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	West Surrey Health Authority	
	West Sussex Health Authority	
Hereford and Worcester Family Health Services Health Authority	Birmingham Health Authority	Worcestershire Health Authority
	Gloucestershire Health Authority	
	Herefordshire Health Authority	
Hertfordshire Family Health Services Authority	Cambridge & Huntingdon Health Authority	East and North Hertfordshire Health Authority
	North Essex Health Authority	
	West Hertfordshire Health Authority	
Hillingdon Family Health Services Authority	West Hertfordshire Health Authority	Hillingdon Health Authority
Humberside Family Health Services Authority	North Yorkshire Health Authority	East Riding Health Authority
	South Humber Health Authority	
Kensington Chelsea and Westminster Family Health Services Authority	Brent & Harrow Health Authority	Kensington & Chelsea and Westminster Health Authority
	Camden & Islington Health Authority	
	Ealing, Hammersmith & Hounslow Health Authority	
Kent Family Health Services Authority	East Kent Health Authority	West Kent Health Authority
Lambeth, Southwark and Lewisham Family Health Services Authority	Bexley and Greenwich Health Authority	Lambeth, Southwark and Lewisham Health Authority
	Bromley Health Authority	
	Croydon Health Authority	
	Merton, Sutton and Wandsworth Health Authority	
Lancashire Family Health Services Authority	East Lancashire Health Authority	North West Lancashire Health Authority
	Morecambe Bay Health Authority	

	South Lancashire Health Authority	
Leeds Family Health Services Authority	Wakefield Health Authority	Leeds Health Authority
Leicestershire Family Health Services Authority	Southern Derbyshire Health Authority	Leicestershire Health Authority
Liverpool Family Health Services Authority	St Helens and Knowsley Health Authority	Liverpool Health Authority
Manchester Family Health Services Authority	Salford and Trafford Health Authority	Manchester Health Authority
	Stockport Health Authority	
Merton, Sutton and Wandsworth Family Health Services Authority	Croydon Health Authority	Merton, Sutton and Wandsworth Health Authority
	East Surrey Health Authority	
	Kingston and Richmond Health Authority	
	Lambeth, Southwark and Lewisham Health Authority	
Norfolk Family Health Services Authority	North West Anglia Health Authority	East Norfolk Health Authority
North Yorkshire Family Health Services Authority	East Riding Health Authority	North Yorkshire Health Authority
Nottinghamshire Family Health Services Authority	North Derbyshire Health Authority	Nottingham Health Authority
	North Nottinghamshire Health Authority	
	Southern Derbyshire Health Authority	
Redbridge and Waltham Forest Family Health Services Authority	Barking & Havering Health Authority	Redbridge and Waltham Forest Health Authority
St Helens and Knowsley Family Health Services Authority	Liverpool Health Authority	St Helens and Knowsley Health Authority
Sandwell Family Health Services Authority	Dudley Health Authority	Sandwell Health Authority
	Walsall Health Authority	
Sheffield Family Health Services Authority	Rotherham Health Authority	Sheffield Health Authority
Shropshire Family Health Services Authority	Worcestershire Health Authority	Shropshire Health Authority

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Solihull Family Health Services Authority	Birmingham Health Authority	Solihull Health Authority
Staffordshire Family Health Services Authority	Shropshire Health Authority	North Staffordshire Health Authority
	South Staffordshire Health Authority	
	Walsall Health Authority	
Suffolk Family Health Services Authority	North Essex	Suffolk Health Authority
Surrey Family Health Services Authority	Berkshire Health Authority	East Surrey Health Authority
	Croydon Health Authority	
	Kingston and Richmond Health Authority	
	Merton, Surrey and Wandsworth Health Authority	
	North and Mid Hampshire Health Authority	
	West Surrey Health Authority	
Wakefield Family Health Services Authority	Leeds Health Authority	Wakefield Health Authority
	West Sussex Health Authority	
Walsall Family Health Services Authority	South Staffordshire Health Authority	Walsall Health Authority
Warwickshire Family Health Services Authority	Coventry Health Authority	Warwickshire Health Authority
	Leicestershire Health Authority	
West Sussex Family Health Services Authority	East Sussex, Brighton and Hove Health Authority	West Sussex Health Authority
	East Surrey Health Authority	
Wigan Family Health Services Authority	Salford and Trafford Health Authority	Wigan and Bolton Health Authority

EXPLANATORY NOTE

(This note is not part of the Regulations)

This Order is made under section 44 of the Health Act 1999. It amends the Health Authorities Act 1995 (Transitional Provisions) Order 1996 so as to rectify certain defects in that Order with retrospective effect. The effect of this is that where one Health Authority (“the acting Health Authority”) acted in relation to practitioners providing services under Part II of the National Health Service Act 1977 (“Part II practitioners”), where another Health Authority (“the proper Health Authority”) should have acted, the proper Health Authority will be treated as though it had been the acting one.

There are exceptions to this general rule in the case of payments or deductions made by the acting Health Authority in relation to Part II practitioners, which will be treated as though they had been made on behalf of the proper Health Authority by the acting Health Authority. There is also an exception for certain specified applications by pharmacies to Health Authorities for relocation of, or additional premises, and for Part II practitioners who provided services on the basis that they were on the appropriate Health Authority list.

Article 4 provides that where court proceedings have been brought against an acting authority but not disposed of before the coming into force of this Order, that authority will be treated as though it had acted on behalf of the proper authority. Article 5 provides that where an acting authority had made representations to the Tribunal constituted under section 46 of the 1977 Act and the matter not finally disposed of before the coming into force of this Order, it will be treated as though it had acted on behalf of the proper authority. It shall continue to do so if so requested by the proper authority, and the proper authority must then notify the Tribunal and the practitioner against whom representations have been made, of the request.

Article 6 provides that Article 3 does not apply in the case of fund-holding practices in connection with any provision relating to a fund-holding practice.