
STATUTORY INSTRUMENTS

1994 No. 2289

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Determination
of Districts) (No. 3) Order 1994**

<i>Made</i>	- - - -	<i>5th September 1994</i>
<i>Laid before Parliament</i>		<i>6th September 1994</i>
<i>Coming into force</i>	- -	<i>1st October 1994</i>

The Secretary of State for Health, in exercise of powers conferred on her by sections 8(1), (2) and (4) and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling her in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Health Service (Determination of Districts) (No. 3) Order 1994 and shall come into force on 1st October 1994.

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

“the Act” means the National Health Service Act 1977;

“the material date” means 1st October 1994;

“the new authority” means the Wigan and Bolton Health Authority, being an authority established by the National Health Service (District Health Authorities) (No. 3 Order) 1994(2);

“the old authorities” means Bolton Health Authority and Wigan Health Authority, the establishment of each of which was continued by the National Health Service (District Health Authorities) Order 1990(3).

(1) 1977 c. 49; section 8 was amended by the Health Services Act 1980 (c. 53), section 1(7) and Part I, paragraph 28, and by the National Health Service and Community Care Act 1990 (c. 19), section 1.
(2) S.I.1994/2288.
(3) S.I. 1990/1756, to which there are amendments not relevant to this Order.

Variation of districts

2.—(1) Bolton District and Wigan District are hereby abolished, and there is determined a new district to be known as Wigan and Bolton District comprising the former Bolton District and the former Wigan District.

(2) Accordingly—

- (a) in Part II of Schedule 1 to the National Health Service (Determination of Districts) Order 1981⁽⁴⁾ the entries in columns (1), (2), (3) and (4) relating to Bolton District and Wigan District are omitted; and
- (b) in Part I of that Schedule, after the entry relating to West Pennine District there are inserted in columns (1), (2) and (3) the entries set out in the Schedule to this Order.

Transfer of officers employed by District Health Authorities

3.—(1) Except as provided by paragraph (2) of this article, any officer employed immediately before the material date by either of the old authorities is transferred on the material date to the employment of the new authority, and the contract of employment of that officer is modified so as to substitute as the employer the new authority.

(2) Where—

- (a) this article makes provision for the transfer of an officer, and
- (b) the officer in question is employed jointly by either of the old authorities and another person,

that provision shall have effect to transfer that officer to the employment of the new authority and that other person jointly, and the contract of employment of that officer is modified so as to substitute the new authority as one of the joint employers.

Preservation of training arrangements

4. Training arrangements made by either of the old authorities under which any officer transferred by this Order is undergoing, or is to undergo, a course of training or has entered, or is going to enter, into an apprenticeship, and which have not been discharged before the material date, continue to apply with the substitution for the old authority of the new authority.

Enforceability of rights

5. Subject to the following provisions of this Order, any right which was enforceable by or against either of the old authorities is enforceable by or against the new authority.

Winding up of affairs of old authorities

6. It is the duty of the new authorities to take, in accordance with such directions as may be given by the North West Regional Health Authority, such action as may be necessary for the winding up of the affairs of the old authorities.

Accounts of old authorities

7. Any duty imposed on either of the old authorities by section 98(a) of the Act, but not performed by the material date, shall be performed by the new authority in accordance with the provisions of that section, any regulations made under that section and any directions which may be given by the Secretary of State.

(4) S.I. 1981/1837; a new Schedule 1 was substituted by S.I. 1994/681 and was amended by S.I. 1994/1261.

Provision for continuity in exercise of functions

8.—(1) Anything duly done by, or any application duly made by, or any direction, authorisation or notice duly given to or by, either of the old authorities is deemed to have been duly done by, or made by or given to or by, the new authority.

(2) Any instrument made by either of the old authorities continues in force, unless it is expressed to cease to be in force sooner, until it is varied or revoked by the new authority.

(3) Any form supplied by either of the old authorities and any form supplied by the Secretary of State relating to either of the old authorities continues to be a valid form in relation to the new authority until it is cancelled or withdrawn by the Secretary of State or, as the case may be, the new authority, as if any reference contained in the form to either of the old authorities were a reference to the new authority.

Accommodation and services made available on payment of charges

9. To the extent that any accommodation and services at any hospital in the district of either of the old authorities are, immediately before the material date, authorised to be made available under section 65(a) of the Act, they continue to be authorised to be made available under that section, to the extent determined by that old authority, on or after that date until such authorisation is varied or revoked by the new authority.

Investigation of complaints by Health Service Commissioner

10.—(1) A complaint made under the Health Service Commissioners Act 1993⁽⁵⁾ to the Health Service Commissioner for England in relation to either of the old authorities, whether made before, on or after the material date, may be investigated by that Commissioner, notwithstanding the abolition of that authority, as if the complaint had been made in relation to the new authority.

(2) The Health Service Commissioner for England, where he conducts such an investigation, shall send a report of the result of his investigation to the new authority and to the North West Regional Health Authority.

Transfer of trust property of old authorities

11. Any trust property vested immediately before the material date in either of the old authorities shall on the material date be transferred to the new authority.

Exercise of powers in relation to trusts

12. Where, immediately before the material date, any power to appoint trustees of a charity connected with purposes relating to the health service⁽⁶⁾ is under the trusts of the charity vested in either of the old authorities, that power vests on the material date in the new authority.

Appointment of new trustees

13. Where, under the trusts of a charity connected with health service purposes, the charity trustees immediately before the material date include a person who is a trustee by virtue of his office

(5) Section 98 was amended by paragraphs 69 and 97 of Schedule 1 to the Health Services Act 1980 (c. 53), paragraph 3 of Schedule 5 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 6(2) of, and Part I of Schedule 8 to, the Health and Social Security Act 1984 (c. 48) and section 20 of the National Health Service and Community Care Act 1990 (c. 19).

(6) Section 65 was substituted by section 7(10) of the Health and Medicines Act 1988 (c. 49), and amended by section 25 of the National Health Service and Community Care Act 1990 (c. 19).

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with either of the old authorities, the trustees shall from that date instead include the holder of the corresponding office with the new authority.

Signed by authority of the Secretary of State for Health

Department of Health
5th September 1994

Gerald Malone
Minister of State

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SCHEDULE

Article 2(2)

ENTRIES INSERTED IN PART I OF SCHEDULE 1 TO THE NATIONAL HEALTH SERVICE (DETERMINATION OF DISTRICTS) ORDER 1981

Column (1)	Column (2)	Column (3)
8	Wigan and Bolton District	In the county of Greater Manchester—the boroughs of Bolton and Wigan.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order abolishes on 1st October 1994 the districts of Bolton and Wigan and determines a new district, called Wigan and Bolton District, for the purposes of the National Health Service Act 1977.

This Order makes provision for the transfer of officers (article 3) from Bolton Health Authority and Wigan Health Authority, which are abolished on 1st October 1994 by the National Health Service (District Health Authorities) (No. 3) Order 1994, to the Wigan and Bolton Health Authority established by that Order, and for the transfer of rights and liabilities of the abolished authorities (article 5). It also makes further provision consequential on the establishment of the new authority.