

**2004 No. (W.) (C. )**

**NATIONAL HEALTH SERVICE, WALES**

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

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is the first Commencement Order in relation to Wales made under the Health and Social Care (Community Health and Standards) Act 2003 (“the Act”).

Article 2 relates to primary medical services. Article 2(1) commences, with effect from 28<sup>th</sup> February 2004, section 179 of the Act in relation to new section 28X of the National Health Service Act 1977 (“the 1977 Act”) concerning lists of persons performing primary medical services. It also commences a regulation making power in section 45A(9) of the 1977 concerning Local Medical Committees.

Article 2(2) commences from 28<sup>th</sup> February 2004 section 174 of the Act in relation to new section 16C of the 1977 Act which empowers Local Health boards to provide primary medical services or make arrangements for their provision. It also commences section 180 of the Act concerning financial assistance and support to persons proposing or providing primary medical services under a general medical services contract or under section 28C arrangements.

Article 2(3) commences from 1<sup>st</sup> April 2004 section 174 of the Act in relation to the duty on Local Health to provide or secure the provision of primary medical services in their areas.

Article 3 relates to general medical services contracts. Article 3(1) commences from 28<sup>th</sup> February 2004 section 175 which includes the regulation and direction making powers inserted into the 1977 Act by section [ ] of the Act and repeals sections 29 to 34A of the 1977 Act concerning general medical services. Article 3 also commences the power in section 176 of the Act to make transitional provision in respect of medical practitioners who were providing general medical services under section 29 of the 1977 Act.

Article 4 commences various consequential amendments relating to primary medical services, and general medical services .

Article 5 commences various repeals relating to primary medical services and general medical services .

Article 6 makes transitional provision applying until the commencement of the provisions relating to general dental services contracts and article 7 makes transitional provision applying until commencement of the repeal of section 178 of the Act relating to the abolition of pilot schemes for personal dental services.

**NOTE AS TO EARLIER COMMENCEMENT ORDERS**

*(This note is not part of the Order)*

The provisions of the Health and Social Care (Community Health and Standards) Act 2003 listed in the table below have been brought into force by a commencement order made before the date of this Order. Except where indicated the provision has been commenced in relation to England and Wales.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 2 to 4	1.1.2004	2003/3346
Section 36	1.1.2004	2003/3346
Section 40	1.1.2004	2003/3346
Section 41	8.1.2004	2003/3346
Section 42 as to England	1.1.2004	2003/3346
Section 147 as to England (partially)	1.1.2004	2003/3346
Section 147 (partially)	8.1.2004	2003/3346
Section 148	1.1.2004	2003/3346
Schedule 2	1.1.2004	2003/3346
Schedule 6	8.1.2004	2003/3346
Schedule 7 as to England	1.1.2004	2003/3346
Schedule 9 paragraphs 1, 3, 5 to 8 and 31 as to England (partially)	1.1.2004	2003/3346
Paragraphs 1, 3, 5 to 8, 13 and 31 (partially)	8.1.2004	2003/3346

**2004 No. (W.) (C. )**

**NATIONAL HEALTH SERVICE, WALES**

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

*Made* - - - - *2004*

The National Assembly for Wales, in exercise of the powers conferred on him by section 195(1)(b) and 199(1) of the Health and Social Care (Community Health and Standards) Act 2003(a), 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(b);

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(c); and

“the 2001 Act” means the Health and Social Care Act 2001(d).

(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);

(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) 28<sup>th</sup> 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) 1<sup>st</sup> 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-

- (ee) (a) the National Health Service (Amendment) Act 1949(a);
- (b) the Health Services and Public Health Act 1968(b);
- (c) the Patents Act 1977(c);
- (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;
- (e) the Health and Social Services and Social Security Adjudications Act 1983(d) in so far as it relates to section 14(1) and Schedule 6, paragraph 2;
- (f) the Medical Act 1983(e);
- (g) the Copyright, Designs and Patents Act 1988(f);
- (h) the Health and Medicines Act 1988(g) 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) the National Health Service and Community Care Act 1990(h) in so far as it relates to sections 18(7) and 23;
- (j) the Access to Health Records Act 1990(i);
- (k) the Trade Union and Labour Relations (Consolidation) Act 1992(j);
- (l) the Health Service Commissioners Act 1993(k) in so far as it relates to section 6(5);
- (m) Health Authorities Act 1995(l) in so far as it relates to paragraphs 18 to 24;
- (n) the Medical (Professional Performance) Act 1995(m);
- (o) the Employment Rights Act 1996(n) 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(o) 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(a) 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.

(3) 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—

“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;”.

(4) 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;”.

(5) 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—
      - “(cc) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 36(1)(a);”
- (e) section 43(1) (persons authorised to provide pharmaceutical services) shall be read as if for the words “general medical services” there were substituted the words “primary medical services”;
- (f) section 43D(10) (supplementary lists) shall be read as if for the words “paragraphs (a) to (e), a supplementary list” there were substituted “paragraphs (b) to (e), a supplementary list, a list under section 28X,”;
- (g) section 44(5)(a) (recognition of local representative committees) shall be read as if the words “ medical practitioner or” were omitted;
- (h) section 45 (functions of local representative committees) shall be read as if—
- (i) in subsection (1)(b), for the words “section 44(A1)(c) or (B1)(c) above” there were substituted the words “section 44(B1)(c) above”,
  - (ii) in subsection (1ZA)(b)—
    - (aa) for the words “section 44(ZA1)(c) or (A2)(c) above” there were substituted the words “section 44(A2)(c) above” and
    - (bb) the words “personal medical or” were omitted,
  - (iii) in subsection (1C)—
    - (aa) for the words “an area under subsection (ZA1)(b) or (c) or (A1)(b) or (c), (A2)(b) or (c) or (B1)(b) or (c) or (B2)(b)(ii)” there were substituted the words “subsection (A2)(b) or (c) or (B1)(b) or (c) or (B2)(b)(ii)”;
    - (bb) paragraphs (za) to (b) were omitted,
  - (iv) in subsection (3), the words “general dental services” were inserted before the words “general ophthalmic services”, and
  - (v) in subsection (4), after the words “persons providing local pharmaceutical services” there were inserted the words “deputy dental practitioners or section 28C dental practitioners, as the case may be”;
- (i) Section 45B (Local Dental Committees) shall be read as if-
- (i) for all references to “primary dental services” there shall be substituted “general dental services”, and
  - (ii) in subsection (3), the words “under a general dental services contract” were omitted, and
  - (iii) sub-section (4)(iii) was omitted.
- (i) section 49N(1) (national disqualification) shall be read as if the word “and” were inserted at the end and the following paragraph was inserted after paragraph (b)—

- “(bb) all lists under section 28X above, or any list corresponding to such a list, and”;
- (j) section 52 (use of accommodation) shall be read as if the words “general dental services” were inserted before the words “general ophthalmic services”;
  - (k) section 72(5)(d) (permission for use of facilities in private practice) shall be read as if the words “or primary dental services” and “or a general dental services contract” were omitted;
  - (l) section 103(1)(a) (special arrangements as to payment of remuneration) shall be read as if the words “or primary dental services” were omitted;
  - (m) section 128(1) (interpretation and construction) shall be read as if in the definition of “terms of service” the words “general dental services” were inserted before the words “general ophthalmic services”;
  - (n) paragraph 1(5) of Schedule 8A (local pharmaceutical services schemes) shall be read as if for the words “personal medical services” there were substituted the words “primary medical services”; and
  - (o) Schedule 9A (the Family Health Services Appeal Authority) shall be read as if—
    - (i) in paragraph 6 there were inserted before paragraph (c) the following paragraph—
    - (ii) “(bb) dental practitioner providing general dental services, or performing personal dental services under section 28C arrangements;”, and
    - (iii) in paragraph 10(aa) for the words “paragraph 6(c) or (d) above” there were substituted the words “paragraph 6(b), (c) or (d) above”.
- (5) In relation to section 1(6) of the Community Health Councils (Access to Information) Act 1988 (a) (access to meetings and documents of Community Health Councils), paragraph (ab) shall be read as if the words “section 28K or” were omitted.
- (6) In relation to section 240(4) of the Copyright, Designs and Patent Act 1988 (Crown use of designs)—
- (a) paragraph (za) shall be read as if the words “or primary dental services” were omitted; and
  - (b) paragraph (a)(i) shall be read as after the words “in the case of pharmaceutical services” there were inserted the words “and general dental services”.
- (7) In relation to section 17 of the Health and Medicines Act 1988 (arrangements for the provision of general medical services etc), subsection (1) shall be read as if the number “35” were inserted before the number “38”.
- (8) In relation to Schedule 4A to the Water Industry Act 1999(b) (premises that are not to be disconnected for non-payment of charges), paragraph 7 shall be read as if the words “or primary dental services” were omitted.
- (9) In relation to the Trade Union and Labour (Consolidation) Act 1992, section 279 (health service practitioners) shall be read as if—
- (a) in subsection (1) the number “35” were inserted before the number “38”
  - (b) in subsection (2)—
    - (i) the words “or primary dental services” were omitted, and
    - (ii) for the words “section 28K or 28Q” there were substituted the words “section 28Q”; and
  - (c) a new subsection (3) were added at the end as follows—
    - “(3) In this Act “worker” includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person performing personal dental services in accordance with arrangements made by a Strategic Health Authority or Primary Care Trust under section 28C of the National Health Service Act 1977.”.
- (10) In relation to of the Health Commissioners Act 1993 —
- (a) section 2A(1) (health service providers subject to investigation) shall be read as if—



- (i) in paragraph (a), for the words “section 28K or 28Q” there were substituted the words “section 28Q”;
  - (ii) in paragraph (c), as if for the words “primary dental services” there were substituted the words “personal dental services”;
  - (iii) a new paragraph (e) were inserted after paragraph (d) as follows—
    - “(e) individuals undertaking to provide general dental services under Part 2 of the 1977 Act.”;
- (b) section 2A(2) shall be read as if—
- (i) in paragraph (a), for the words “section 28K or 28Q” there were substituted the words “section 28Q”;
  - (ii) in paragraph (c), for the words “primary dental services” there were substituted the words “personal dental services”;
  - (iii) new paragraph (d) were inserted after paragraph (c) as follows—
    - “(d) individuals undertaking to provide general dental services under Part 2 of the 1977 Act.”; and
- (c) section 6(5) (general health services and service committees) shall be read as if the number “35” were inserted before the number “38”.
- (11) In relation to the Employment Rights Act 1996, section 43K(1) (extension of meaning of “maker” etc.) shall be read as if—
- (a) in paragraph (ba), for the words “section 28K or 28Q” there were substituted the words “section 28Q”; and
  - (B) in paragraph (c)(i), the number “35” were inserted before the number “38”.
- (12) In relation to the 2001 Act Schedule 1 (exempt information relating to health services) shall be read as if—
- (a) in paragraph 11 before the word “services” in each place it appears, the words “personal dental” were inserted;
  - (b) in paragraph 12 the words “personal medical services or” were omitted;
  - (c) the following paragraph were inserted after paragraph 12□
    - “12A. Information relating to a particular person who□
      - (a) is or was formerly providing primary medical services under a contract under section 28Q of the 1977 Act,
      - (b) is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of the 1977Act.”; and
  - (d) in paragraph 13, for “11, or 12” there were substituted “11, 12 or 12A”

### **Transitional provisions applying until the coming into force of section 178 of the Act**

- 7.—(1) Until the coming into force of section 178(1) of the Act in relation to primary dental services, the following transitional provisions shall apply.
- (2) In relation to the 1977 Act, section 28I (use of accommodation) shall be read as if the words “personal dental services” were substituted for the words “primary dental services”.
  - (3) In relation to the 1997 Act, section 1(2) (pilot schemes) shall be read as if for the words “personal medical services” there were substituted the words “primary medical services”.
  - (4) In relation the Copyright, Designs and Patent Act 1988(a), section 240(4) (Crown use of designs) shall be read as if a new paragraph (bb) were inserted after paragraph (b) as follows—

“(bb) personal dental services in accordance with arrangements made under section 28C of the 1977 Act”.

(6) In relation to the Health and Social Care Act 2001(b), section 28(4) (pilot schemes) shall be read as if –

- (a) there were omitted the words “or primary dental services”; and
- (b) there were inserted at the end the words “or personal dental services under any provision of, or made under, the 1977 Act or the National Health Service (Primary Care) Act 1997”.

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

Date

The Presiding officer of the National Assembly(c)