STATUTORY INSTRUMENTS

1985 No. 301

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The Family Practitioner Committees (Establishment) Order 1985

Made - - - - -	1*st March* 1985
Laid before Parliament	11*th March* 1985
Coming into Operation	1*st April* 1985

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 10(1), (2), (3) and (6) and 126(4) of the National Health Service Act 1977**(a)**, and of all other powers enabling him in that behalf, hereby makes the following order:—

Citation, commencement and interpretation

1.—(1) This order may be cited as the Family Practitioner Committees (Establishment) Order 1985 and shall come into operation on 1st April 1985.

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

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

"new Committee" means a Family Practitioner Committee established by Article 2(1) of this order or by the Family Practitioner Committees (Establishment) Order 1984**(b)**;

"old Committee" means a Family Practitioner Committee established before 1st April 1985 by a District Health Authority under section 10 of the Act or established or adopted before that date under section 2 of the Health Services Act 1980**(c)**;

(*b*) a reference to the district of a District Health Authority is, in the case of such Authorities acting jointly under section 2 of the Health Services Act 1980, to the combined districts of the Authorities; and

(*c*) a reference in an Article to a numbered paragraph is to the paragraph of that Article bearing that number.

(3) In the Schedule to this order a reference to a London borough is to that borough as determined on the date on which this order is made and a reference to a county or district is to that county or district as determined under the Local Government Act 1972**(d)** on that date; and no account shall be taken for the purposes of that Schedule of any subsequent change effected under that Act in the boundaries of any of those boroughs, counties or districts.

(a) 1977 c. 49; section 10 was substituted by section 5 of the Health and Social Security Act 1984 (c. 48).

(b) S.I. 1984/1946. **(c)** 1980 c. 53. **(d)** 1972 c. 70.

Family Practitioner Committees and their localities

2.—(1) There are hereby established a number of authorities, called Family Practitioner Committees, equal to the number of entries in column 1 of the Schedule to this order.

(2) Each authority established by paragraph (1) by virtue of an entry in column 1 of the Schedule to this order—

(*a*) shall be known by a name consisting of the words comprising that entry followed by the words "Family Practitioner Committee"; and

(*b*) shall (as from 1st April 1985**(a)**) act for the locality specified in relation to that entry in column 2 of that Schedule.

Transfer of Staff

3.—(1) Any person who, immediately before 1st April 1985, is employed by a District Health Authority—

(*a*) wholly or mainly for the purposes of the functions of an old Committee; or

(*b*) as a dental practitioner providing general dental services under Part II of the Act; or

(*c*) wholly or mainly for purposes associated with the provision by such a practitioner of such services,

shall on 1st April 1985 be transferred to the new Committee for the relevant locality and the contract of employment between that person and that Authority shall be modified by substituting that new Committee as the employer in the place of that Authority.

(2) Any right enforceable immediately before 1st April 1985 by or against a District Health Authority in respect of the employment by such an Authority of a person who is transferred by virtue of paragraph (1) shall be enforceable instead by or against the new Committee for the relevant locality.

(3) Any question arising whether a person is transferred by virtue of paragraph (1) shall be determined by agreement between the District Health Authority employing him immediately before 1st April 1985 and the new Committee for the relevant locality or, in default of such agreement, by the Secretary of State.

(4) In this Article "relevant locality" means, in relation to a District Health Authority,—

(*a*) where the district of that Authority falls wholly within, or is the same as, the locality of a new Committee, that locality;

(*b*) in any other case, the locality which contains a greater part of the district of that Authority than any other locality.

(a) *See* the Family Practitioner Committees (Specified Date) Order 1985 (S.I. 1985/302).

Rights and liabilities of District Health Authorities

4.—(1) Where—

(*a*) by virtue of directions given under the Act (**a**) it is, immediately before 1st April 1985, a function exercisable by a District Health Authority to use and maintain any land or other property; and

(*b*) by virtue of directions so given it becomes, on that date, a function of a new Committee to control, maintain and manage that land or other property,

any rights or liabilities relating to that land or other property, or to its use and maintenance, which are acquired or incurred in respect of a period on or after that date (even if under an agreement made before that date) and which would otherwise be rights enforceable by, or liabilities of, that District Health Authority shall instead be rights enforceable by, or liabilities of, that new Committee.

(2) A payment which is, in the normal course of business, to be made on or after 1st April 1985 and is so made to or by a District Health Authority in respect of a right acquired or a liability incurred in connection with the exercise of a function of an old Committee shall be accounted for to, or reimbursed by, as the case may be, the new Committee which, by virtue of the Act or any instrument made or directions given under the Act, is to exercise that function.

Rights and liabilities of, and other matters relating to, old Committees

5.—(1) Anything duly done by, or any form, notice or instrument given or made by, and any application or reference duly made or any direction, authorisation or notice duly given to, an old Committee in connection with the exercise by that old Committee of any function which, by virtue of the Act or any instrument made or any directions given under the Act, is a function exercisable by a new Committee, shall be treated as having been duly done, issued, given or made by, or made or given to, that new Committee; and—

(*a*) any right enforceable by that old Committee immediately before 1st April 1985 shall be enforceable by that new Committee; and

(*b*) any liability incurred by that old Committee before that date shall be a liability of that new Committee.

(2) All arrangements for the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services which it is the duty of an old Committee to administer immediately before 1st April 1985 shall, so far as they relate to the locality of a new Committee, remain in full force and effect as if made by that new Committee.

(3) Any decision given by an old Committee or by a Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee formed for the district of a District Health Authority shall, so far as it relates to the locality of a new Committee, have effect as though it had been given by that new Committee or by the Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee formed for that locality.

(a) *See* the National Health Service Functions (Directions to Authorities and Administration Arrangements) Regulations 1982 (S.I. 1982/287); the relevant amending instrument is S.I. 1985/39.

(4) Any medical practitioner whose name is included immediately before 1st April 1985 on the medical list prepared by an old Committee under section 29 of the Act and who at that date—

(*a*) has practice premises in the locality of a new Committee; or

(*b*) has on his list any patient residing permanently in that locality,

shall, subject to the provisions of Part II of the Act relating to disqualification, be entitled to be included on the medical list of that new Committee for the provision of services in the parts of that locality in which he was entitled to provide them immediately before 1st April 1985.

(5) Any practitioner who has undertaken to provide general dental services, general ophthalmic services or pharmaceutical services whose name is included immediately before 1st April 1985 on the appropriate list prepared by an old Committee shall, subject to the provisions of Part II of the Act relating to disqualification, be entitled to be included on the appropriate list of the new Committee in the locality of which his practice premises are situated.

(6) Proceedings in accordance with Part II of the National Health Service (Service Committees and Tribunal) Regulations 1974**(a)** relating to services provided before 1st April 1985 pursuant to arrangements made with a practitioner under Part II of the Act and administered by an old Committee may be instituted or continued by the new Committee by which, under paragraph (2), those arrangements are treated as made or, where the practitioner has ceased before that date to be included on the old Committee's list, would otherwise be treated as made.

(7) The provisions of paragraphs (2) to (6) are without prejudice to the generality of the provisions of paragraph (1).

Investigation of complaints by Health Service Commissioners

6. A complaint made under Part V of the Act, whether before, on or after 1st April 1985, in relation to an old Committee may be investigated by a Commissioner in accordance with that Part as if the complaint had been made in relation to the new Committee exercising in place of that old Committee the function in respect of which the complaint is made.

Signed by authority of the Secretary of State for Social Services.

John Patten,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

1st March 1985.

(a) S.I. 1974/455, amended by S.I. 1974/907.

SCHEDULE Article 2

FAMILY PRACTITIONER COMMITTEES AND THEIR LOCALITIES

Column 1	Column 2
Name of Family Practitioner Committee	Locality
Berkshire	The county of Berkshire
Bradford	The City of Bradford in West Yorkshire
Buckinghamshire	The county of Buckinghamshire
Camden and Islington	The London boroughs of Camden and Islington
Cheshire	The county of Cheshire
Ealing Hammersmith and Hounslow	The London boroughs of Ealing, Hammersmith and Fulham and Hounslow
Kensington and Chelsea and Westminster	The Royal borough of Kensington and Chelsea and the City of Westminster
Kingston and Richmond	The Royal borough of Kingston upon Thames and the London borough of Richmond upon Thames
Lancashire	The county of Lancashire
Merton Sutton and Wandsworth	The London boroughs of Merton, Sutton and Wandsworth
North Yorkshire	The county of North Yorkshire
Oxfordshire	The county of Oxfordshire
Rochdale	The borough of Rochdale in Greater Manchester
Surrey	The county of Surrey
Wirral	The borough of Wirral in Merseyside

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order establishes 15 new Family Practitioner Committees, names those Committees and specifies the localities for which they are to act (Article 2 and the Schedule). It also makes supplemental provision for all Family Practitioner Committees established by the Secretary of State, including provisions in respect of:—

(*a*) the transfer of staff from District Health Authorities (Article 3);

(*b*) rights and liabilities in respect of property maintained or managed from 1st April 1985 by Family Practitioner Committees instead of by District Health Authorities and payments made by or to those Authorities after that date (Article 4);

(*c*) rights, liabilities and affairs of Family Practitioner Committees which were established or adopted by District Health Authorities, all of which Committees cease to exist on 1st April 1985 by virtue of section 5(6) of the Health and Social Security Act 1984 and the Family Practitioner Committees (Specified Date) Order 1985 (Article 5);

(*d*) the investigation by the Health Service Commissioners of complaints made in relation to the Family Practitioner Committees which cease to exist on 1st April 1985 (Article 6).

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