STATUTORY INSTRUMENTS

1974 No. 216

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Rights and Liabilities Transferred from Executive Councils and Pricing Committees) Order 1974

Made - - - - *8th February* 1974

* *To be laid before Parliament*

Coming into Operation *1st April* 1974

The Secretary of State for Social Services, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred upon them by section 17(1) and (2) of the National Health Service Reorganisation Act 1973**(a)** and of all other powers enabling them in that behalf, hereby make the following Order:—

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the National Health Service (Rights and Liabilities Transferred from Executive Councils and Pricing Committees) Order 1974 and shall come into operation on 1st April 1974.

Interpretation

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

"the Act of 1973" means the National Health Service Reorganisation Act 1973;

"Area Authority" means an Area Health Authority;

"Committee" means a Family Practitioner Committee;

"Council" means an Executive Council;

and any other expression to which a meaning is assigned by the National Health Service Act 1946**(b)** shall have that meaning in this Order.

(2) In this Order, unless the context otherwise requires, any reference to a right or to a liability means a right or a liability transferred to the Secretary of State by virtue of section 17(1) of the Act of 1973.

(3) References in this Order to any enactment, order or regulations include references to such enactment, order or regulations as amended by any subsequent enactment, order or regulations.

(4) The rules for the construction of an Act of Parliament contained in the Interpretation Act 1889**(c)** shall apply for the purposes of the interpretation of this Order as they apply for the purposes of the interpretation of an Act of Parliament.

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*This instrument was laid before Parliament on 6th March 1974.

(a) 1973 c.32. **(b)** 1946 c.81. **(c)** 1889 c.63.

PART II

RIGHTS AND LIABILITIES TRANSFERRED FROM COUNCILS

Enforceability by or against Area Authorities

3.—(1) Any right or liability which was acquired or incurred by a Council, other than such rights or liabilities as are referred to in any of the following provisions of this Order, shall be enforceable by or against the Area Authority exercising, in place of that Council, the function in respect of which such right or liability was acquired or incurred and, where there is no such Area Authority or there is more than one such Area Authority, such right or liability shall be enforceable by or against that Area Authority whose area includes all or the largest part of the area of the Council.

(2) Any right or liability which was acquired or incurred by a Council in respect of the employment of an officer of the Council who transfers to the employment of an Area Authority by virtue of an Order made under section 18(1) of the Act of 1973 shall be enforceable by or against such Area Authority.

(3) Any right or liability which was acquired or incurred by a Council in respect of any land or premises or the use of any land or premises shall be enforceable by or against the Area Authority which, by virtue of directions given under section 7 of the Act of 1973 controls and manages or has the use of such land or premises on 1st April 1974.

(4) Any right or liability which was acquired or incurred by a Council in respect of property other than land or premises shall be enforceable by or against the Area Authority which on 1st April 1974 has responsibility for securing the maintenance and replacement of such property.

(5) Subject to the provisions of the next following Article any right enforceable by a Council to secure payment of a debt due to that Council immediately before 1st April 1974 and any liability on the part of a Council for payment of a debt owing at that time shall be enforceable by or against the Area Authority that is directed by the Secretary of State to wind up the affairs of that Council.

Enforceability by or against Committees

4.—(1) Subject to the following provisions of this Article, any right or liability which was acquired or incurred by a Council—

(*a*) in respect of or in consequence of an application for inclusion in a Council's list of persons undertaking to provide general medical services, general dental services, general ophthalmic services or pharmaceutical services or in respect of or in consequence of inclusion in any such list as aforesaid;

(*b*) in respect of or in consequence of any arrangements made by the Council for the supply of drugs and appliances by a medical practitioner; or

(*c*) by virtue of any regulations made under the Health Service Acts relating to the making and recovery of charges for drugs and appliances;

shall be enforceable—

(i) in a case connected with the provision of general medical services, by or against the Committee established for the area in which there

resides, on 1st April 1974, the largest proportion of the total number of persons the medical practitioner concerned has on his lists in all areas in which he provides general medical services; and

(ii) in a case connected with the provision of general dental services, general ophthalmic services or pharmaceutical services, by or against the Committee established for the area in which are situated the practice premises, relevant to the case, of the person undertaking to provide such services.

(2) Any right or liability which was acquired or incurred by a Council to which paragraph (1) of this Article relates and which, by virtue of that paragraph is not made enforceable by or against any Committee or is made enforceable by or against more than one Committee, shall be enforceable by or against the Committee established for the area which includes all or the largest part of the area of the Council.

PART III

RIGHTS AND LIABILITIES TRANSFERRED FROM PRICING COMMITTEES

Enforceability by or against Prescription Pricing Authority

5. Any right or liability which was acquired or incurred by the Joint Pricing Committee for England established by the National Health Service (Joint Pricing Committee for England) Order 1948**(a)** shall be enforceable by or against the Prescription Pricing Authority established by the Prescription Pricing Authority (Establishment and Constitution) Order 1974**(b)**.

Enforceability by or against the Welsh Health Technical Services Organisation

6. Any right or liability which was acquired or incurred by the Welsh Joint Pricing Committee established by the National Health Service, (Welsh Joint Pricing Committee) Order 1948**(c)** shall be enforceable by or against the Welsh Health Technical Services Organisation established by the Welsh Health Technical Services Organisation (Establishment and Constitution) Order 1973**(d)**.

PART IV

SUPPLEMENTARY

Variation of instruments

7. All contracts, deeds, bonds, agreements and other instruments subsisting in favour of, or against, and all notices in force which were given (or have effect as if they had been given) by, or to, a Council, the Joint Pricing Committee for England or the Welsh Joint Pricing Committee, in respect of property, rights or liabilities transferred under section 17(1) of the Act of 1973 to the Secretary of State, shall be of full force and effect in favour of, or against, the Secretary of State.

7th February 1974. *Keith Joseph*,
Secretary of State for Social Services.

8th February 1974. *Peter Thomas*,
Secretary of State for Wales.

(a) S.I. 1948/1301 (Rev. XV, p.704: 1948 I, p.2172).
(b) S.I. 1974/9 (1974 I, p. 14).
(c) S.I. 1948/1488 (Rev. XV, p.711: 1948 I, p.2178).
(d) S.I. 1973/1624 (1973 III, p.5070).

EXPLANATORY NOTE

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

This Order makes provision for rights and liabilities of Executive Councils to be enforceable by or against the Area Health Authorities or Family Practitioner Committees exercising the functions in respect of which such rights and liabilities were acquired or incurred and provides for rights and liabilities of the Joint Pricing Committee for England and the Welsh Joint Pricing Committee to be enforceable respectively by or against the Prescription Pricing Authority and the Welsh Health Technical Services Organisation.

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