

NATIONAL HEALTH SERVICE ACT 1977

Directions to Health Authorities, Primary Care Trusts and NHS trusts in England

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 17, 97(6) and 126(4) of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby gives the following Directions:

Application, commencement and interpretation

1. —1. These Directions shall come into force on 1st January 2002 and shall apply to every Health Authority, Primary Care Trust and NHS trust in England.

(1) In these Directions

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

“health care intervention” includes a medicine, medical device, diagnostic technique, surgical procedure and other therapeutic intervention;

“the Institute” means the National Institute for Clinical Excellence(2);

“NHS treatment” means treatment provided to a patient under the Act;

“patient” means any person who is receiving NHS treatment;

“prescription form” has the same meaning as in the National Health Service (Charges for Drugs and Appliances) Regulations 2000(3);

“recommended by the Institute” means recommended for NHS treatment subject to any qualifications specified in the Technology Appraisal Guidance;

“Technology Appraisal Guidance” means any guidance that has been issued by the Institute since 26 February 1999 in accordance with the Directions given by the Secretary of State and the National Assembly for Wales(4) following technology appraisals conducted by the Institute in accordance with their published procedures.

“treatment” includes prevention, examination and diagnosis.

(a) 1977 c. 49.[Section 17 was substituted by section 12(1) of the Health Act 1999 (c.8) (“the 1999Act”) and was amended by Schedule 5, Part 1, paragraph 5(1) and (3), to the Health and Social Care Act 2001 (c.15).] Section 97(6) was amended by the National Health Service (Primary Care) Act 1997 (c.46, section 41(10 and Schedule 2, paragraph 22; the [1999 Act], section 65, Schedule 4 paragraphs 4, and 31(1) and (2), and Schedule 5. The function of the Secretary of State under sections [17 (except in some cases not relevant to these directions),] 97(6) and 126(4) are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 as amended by section 66(4) to (6) of the Health Act 1999 (c.8).

(2) S.I.1999/220 as amended by S.I.1999/2219.

(3) S.I. 2000/620 as amended by S.I. 2000/2393 and 3189.

(4) Directions to the National Institute for Clinical Excellence August 1999 and January 2000 were made under powers in the NHS Act 1977 (c.49) that have been exercised concurrently with the Secretary of State by virtue of Article 2(c) of the National Assembly for Wales (Transfer of Functions) Order 1999 S.I.1999/672.

Application of sums paid to Health Authorities and Primary Care Trusts

2. A Health Authority shall, in exercising those functions that it has been directed to exercise by the Secretary of State⁽⁵⁾, apply such amounts of the sums paid to it under section 97(3) of the Act⁽⁶⁾ as may be required so as to ensure that a health care intervention that is recommended by the Institute in a Technology Appraisal Guidance is, from a date not later than three months from the date of that Technology Appraisal Guidance, normally available:
 - (a) to be prescribed for any patient on a prescription form for the purpose of his NHS treatment; or
 - (b) to be supplied or administered to any patient for the purpose of his NHS treatment.
3. A sum paid to a Primary Care Trust by a Health Authority under section 97C(1)(b)⁽⁷⁾ of the Act shall, for the purpose of section 97C(5) of the Act be subject to these Directions to the extent that such sum relates to the exercise by a Primary Care Trust of its functions ⁽⁸⁾.

Co-operation of NHS trusts

4. An NHS trust shall co-operate with a Health Authority or a Primary Care Trust to facilitate compliance with these Directions.

Signed by authority of the Secretary of State

11th December 2001

Alan Angilley
Member of the Senior Civil Service
Department of Health

⁽⁵⁾ S.I.2001/747.

⁽⁶⁾ Section 97(3) was amended by the Health Act 1999 (c.8) ("the 1999 Act"), section 4(2)(b) and (4), sub-section (3AA) was inserted by the Health and Social Care Act 2001(c.15) ("the 2001 Act"), sections 1(1) and (2); subsections (3A) and 3(B) were substituted by subsequent sub-sections (3BB) in relation to the financial year 1999-2000 and subsequent financial years by the 1999Act, section 4(2)(c) and (4), sub-sections (3C)-(3F) were inserted by the 1999 Act sections 8(1) and (2); (although not yet brought into force) sub-section (3C) was substituted by the 2001 Act, sections 2(1) and(2); sub-section (3D) was amended by the 2001 Act, sections 2(1) and (3).

⁽⁷⁾ Section 97(1) was inserted by the Health Act 1999 (c.8), section 3.

⁽⁸⁾ S.I. 2000/695.

