

## NATIONAL HEALTH SERVICE ACT 1977

### NATIONAL HEALTH SERVICE LITIGATION AUTHORITY AND PRIMARY CARE TRUST DIRECTIONS 2005

The Secretary of State for Health, in exercise of the powers conferred on him by sections 16D, 17 and 18(3) of the National Health Service Act 1977(a), and all other powers enabling him in that behalf, hereby gives the following Directions:-

#### Citation, commencement and application

1.—(1) These Directions, which may be cited as the National Health Service Litigation Authority and Primary Care Trust Directions 2005, shall come into force on 1<sup>st</sup> April 2005.

(2) These Directions apply in relation to England only.

#### Interpretation

2. In these Directions—

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

“the Authority” means the National Health Service Litigation Authority established by Article 2 of the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(b).

“list” means—

- (a) an ophthalmic list kept by a Primary Care Trust under regulation 6 of the Ophthalmic Regulations;
- (b) a dental list prepared by a Primary Care Trust under regulation 4 of the National Health Service (General Dental Services) Regulations 1992(c);
- (c) a supplementary list prepared in relation to general dental services under regulation 3 of the National Health Service (General Dental Services Supplementary List) and (General Dental Services) Amendment Regulations 2003(d);
- (d) a medical performers list prepared by a Primary Care Trust pursuant to regulation 3(1) of the Performers Lists Regulations;

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(a) 1977 c.49. Section 16D was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), s. 12(1) and amended by the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”), s. 3(2) and Schedule 1, paragraph 6; section 17 was substituted by the 1999 Act, s. 12(1), and amended by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), Schedule 5, paragraph 5(3) and the 2002 Act, Schedule 1, paragraph 7; section 18(3) was amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 9, and Schedule 3, and the 1999 Act, section 12(4). As respects Wales, the powers to give directions under these sections have been transferred to the National Assembly for Wales, *see* article 2 of, and the entry in relation to the National Health Service Act 1977 in, Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672.

(b) S.I. 1995/2800, as amended by S.I. 2002/2621 and S.I. 2005/503.

(c) S.I. 1992/661. Relevant amending instruments are S.I. 1995/3092, 1998/1648, 2001/289, 2421, 2469, 3741 and 3963 and 2004/696.

(d) S.I. 2003/250.

- (e) an ophthalmic supplementary list prepared by a Primary Care Trust under regulation 3 of the Ophthalmic Supplementary List Regulations; and
- (f) a pharmaceutical list prepared by a Primary Care Trust pursuant to regulation 4 of the Pharmaceutical Regulations.

“the Ophthalmic Regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986(a);

“Ophthalmic Supplementary List Regulations” means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services Amendment and Consequential Amendment) Regulations 2005(b);

“Performers Lists Regulations” means the National Health Service (Performers Lists) Regulations 2004(c); and

“the Pharmaceutical Regulations” means the National Health Service (Pharmaceutical Services) Regulations 2005(d);

“practitioner” means a person who has at any time applied for inclusion or been included in a list.

### **Functions exercisable by the Authority**

**3.**—(1) The Secretary of State’s functions of receiving, requesting or supplying information under the provisions specified in Schedule 1 to these Directions shall be exercised on his behalf by the Authority.

(2) Where, by virtue of paragraph (1), the Authority discharges the function of receiving information, the Authority shall, if requested to do so by the Secretary of State, maintain that information in a particular form or manner.

(3) The Authority shall provide to the Secretary of State, if he so requests, details of any notification and such statistical and other information concerning the functions mentioned in paragraph (1) as he shall require.

(4) The Secretary of State’s functions of requesting and receiving information under regulation 20(1) and (2) of the Performers Lists Regulations and regulation 20(1)(a) and (2) of the Ophthalmic Supplementary List Regulations shall be exercisable by the Authority.

(5) The Authority shall comply with any request made by any Primary Care Trust under direction 4(4) of these Directions.

### **Exercise of functions by Primary Care Trusts**

**4.**—(1) Where, by virtue of any of the provisions specified in Schedule 1 to these Directions , a Primary Care Trust is to disclose any matter to the Secretary of State, the Primary Care Trust shall discharge that function by notifying the Authority.

(2) Where, by virtue of regulation 20(1)(a) and (2) of the Performers Lists Regulations or regulation 20(1)(a) and (2) of the Ophthalmic Supplementary List Regulations, a Primary Care Trust has the function of disclosing information to the Secretary of State, the Primary Care Trust

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(a) S.I. 1986/975. Relevant amending instruments are S.I. 1996/705, 2001/414 and 3739, 2002/2469 and 2005/480.

(b) S.I. 2005/480.

(c) S.I. 2004/585.

(d) S.I. 2005/641.

shall discharge that function by notifying the Authority, unless in all the circumstances it appears to the Primary Care Trust to be appropriate also to notify the Secretary of State.

(3) The power of the Secretary of State to request information under regulations 20(2) of the Performers Lists Regulations and 20(2) of the Ophthalmic Supplementary List Regulations shall be exercisable by the Authority.

(4) Where, for the purposes of any of the provisions specified in Part 1 of Schedule 2 to these Directions, a Primary Care Trust is to—

- (a) check or consider the suitability of any practitioner for inclusion in a list; or
- (b) consider the removal of a practitioner from its list under section 49F of the 1977 Act or any provision corresponding to that section included in regulations pursuant to section 28X(4) or 43D(6) of that Act(a),

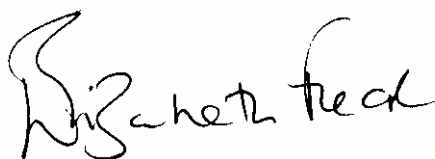
it may, in its exercise of that function, check with the Authority whether the Authority has any information concerning the practitioner and request the disclosure of it.

(5) Where, by virtue of any of the provisions specified in Part 2 of Schedule 2 a Primary Care Trust is required or empowered to obtain information from the Secretary of State, it shall discharge that function by requesting information from the Authority.

### Revocation

5.—(1) The Family Health Services Appeal Authority (Special Health Authority) and Primary Care Trust Directions 2004, which came into force on 21<sup>st</sup> September 2004, are revoked.

Signed by authority of the Secretary of State



A Member of the Senior Civil Service  
Department of Health

31<sup>st</sup> March 2005

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(a) Section 49F was inserted into the 1977 Act by the 2001 Act, section 25 and amended by the 2002 Act, Schedule 2, paragraph 21(a) and the Health and Social Care (Community Health and Standards) Act 2003 (c.17) (“the 2003 Act”), Schedule 14; section 28X was inserted into the 1977 Act by section 179(1) of the 2003 Act; section 49F(3) was inserted into the 1977 Act by the 2001 Act, section 24 and amended by the 2002 Act, Schedule 2, paragraph 20.

PROVISIONS OF REGULATIONS CONFERRING FUNCTIONS ON THE SECRETARY OF  
STATE WHICH ARE TO BE EXERCISED BY THE AUTHORITY

**The Ophthalmic Regulations**

Regulation 7(1B)(c)

Regulation 7A(1)(f)

Regulation 7D(13), (18) and (20)

Regulation 9B(1)(b) and (3)(b)

Regulation 9D(1), (5) and (7)

**The National Health Service (General Dental Services) Regulations 1992(a)**

Regulation 5ZD(13), (18) and (20)

Regulation 8D(1), (6) and (8)

**The National Health Service (General Dental Services Supplementary List) and (General  
Dental Services) Amendment Regulations 2003(b)**

Regulation 16(1), (6) and (8)

**The Performers Lists Regulations**

Regulation 6(1) and (3)

Regulation 11(1), (3) and (5)

Regulation 16(1), (6) and (8)

**The Ophthalmic Supplementary List Regulations**

Regulation 6(1)(e) and (3)(c)

Regulation 11(1)(b), (3)(b) and (5)(b)

Regulation 16(1), (6) and (8)

**The Pharmaceutical Regulations**

Regulation 19(2)

Regulation 24(2)

Regulation 28(1), (6) and (8)

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(a) S.I. 1992/661, relevant amendments to which were made by S.I. 2001/3741 and 2002/558.  
(b) S.I. 2003/250.

Regulation 36(3)

Regulation 46(1), (3) and (5)

SCHEDULE 2

Direction 4(4) and (5)

PROVISIONS OF STATUTORY INSTRUMENTS CONFERRING FUNCTIONS ON  
PRIMARY CARE TRUSTS TO BE DISCHARGED (INTER ALIA) BY SEEKING  
INFORMATION FROM THE AUTHORITY

PART 1

**The Ophthalmic Regulations**

Regulation 7A(1)

Regulation 9B(1), (3) and (5)

**The National Health Service (General Dental Services) Regulations 1992**

Regulation 5(3ZA)

Regulation 8B (1), (3) and (5)

**The National Health Service (General Dental Services Supplementary List) and (General  
Dental Services)Amendment Regulations 2003**

Regulation 6(3)

Regulation 11(1), (3) and (5)

**The Performers Lists Regulations**

Regulation 6(1)(d) and (3)(c)

Regulation 11(3)(b)

**The Ophthalmic Supplementary List Regulations**

Regulation 6(1)(e) and (3)(c)

Regulation 11(3)(b)

**The Pharmaceutical Regulations**

Regulation 19(2)

Regulation 24(2)

Regulation 36(3)

Regulation 46(1), (3) and (5)

## **PART 2**

### **The Performers Lists Regulations**

Regulation 6(1) and (3)

Regulation 11(1), (3) and (5)

### **The Ophthalmic Regulations**

Regulation 7(1B)(c)

Regulation 7A(1)(f)

Regulation 9B(1)(b) and (3)(b)

### **The Ophthalmic Supplementary List Regulations**

Regulation 6(1)(e) and (3)(c)

### **The Pharmaceutical Regulations**

Regulation 19(2)