

**NATIONAL HEALTH SERVICE ACT 1977**  
**NATIONAL HEALTH SERVICE LITIGATION AUTHORITY (FUNCTIONS)**  
**(ENGLAND AND WALES) DIRECTIONS 2005**

The Secretary of State for Health, in exercise of the powers conferred on him by sections 16D, 17, 18(3) and 126(4) of the National Health Service Act 1977(a), and all other powers enabling him in that behalf, hereby gives the following Directions:-

**Citation and commencement**

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

**Interpretation**

2. In these Directions—

“the 1997 Regulations” means the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(b);

“appeal body” means an appeal body mentioned in regulation 14 of the 1997 Regulations;

“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(c);

“certificate of equivalent experience” means a certificate issued under regulation 12 of the 1997 Regulations;

“certificate of prescribed experience” means a certificate issued under regulation 10 of the 1997 Regulations; and

“FHSAA (SHA)” means the Family Health Services Appeal Authority (Special Health Authority) established by article 2 of the Family Health Services Appeal Authority (Establishment and Constitution) Order 1995(d).

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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, section 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, sections 12(3) and (4); section 126(4) was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 65(2), the 1999 Act, Schedule 4 paragraph 37(6) and the 2001 Act, Schedule 5 paragraph 5(13)(b). These powers are exercisable by the Secretary of State in relation to England and Wales as respects health service functions which have not been transferred to the National Assembly for Wales.

(b) S.I.1997/2817. Relevant amending Instruments are S.I. 1998/669, 2002/2469, 2003/3148 and 2004/696.

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

(d) S.I.1995/621. The name of the Family Health Services Appeal Authority was changed to the Family Health Services Appeal Authority (Special Health Authority) by S.I. 2001/3562.

### **Transactions involving the sale of goodwill**

3.—(1) The Authority shall, on behalf of the Secretary of State, exercise the functions of the Secretary of State in Schedule 10 to the National Health Service Act 1977(a) specified in the Schedule to these Directions.

(2) Where the exercise by the Authority of the functions referred to in the Schedule to these Directions necessitates the execution of any document, the Authority shall make arrangements for a member or officer of the Authority, duly authorised for that purpose, to sign the document for the Authority on behalf of the Secretary of State.

### **Appeals from refusal of certificates of prescribed or equivalent experience**

4.—(1) The Authority shall exercise the functions of the Secretary of State which are mentioned in regulations 13, 14, 15 and 16 of the 1997 Regulations.

(2) The Authority may, subject to paragraph (3), make arrangements for an officer of the Authority to exercise the functions referred to in paragraph (1) on its behalf.

(3) An officer may not, in exercising the functions which are mentioned in regulations 14 or 15 of the 1997 Regulations, appoint himself to be a member of the appeal body.

### **Appeals from refusal to grant approval or withdrawal of approval as a GP Registrar Trainer**

5.—(1) The Authority shall exercise the functions of the Secretary of State which are mentioned in regulation 7 of the 1997 Regulations.

(2) The Authority may make arrangements for an officer of the Authority to exercise the functions referred to in paragraph (1) on its behalf.

### **Transitional provisions**

6. Where, pursuant to article 18 (provision for continuity in the exercise of functions) of the Special Health Authorities Abolition Order 2005(b), the Authority is continuing to consider an appeal made to the FHSAA(SHA), and the FHSAA(SHA) had appointed an appeal body to determine that appeal under regulation 14 of the 1997 Regulations, that appeal shall, subject to any action taken by the Authority under regulation 15 of those Regulations, continue to be determined on behalf of the Authority by that appeal body as constituted on 31<sup>st</sup> March 2005.

### **Revocations**

7. The following directions are revoked—

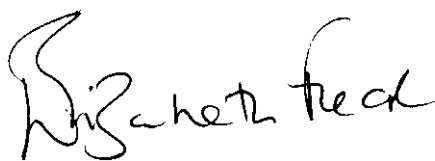
- (a) the Directions to the Family Health Services Appeal Authority on Appeals from Refusal of Certificates of Prescribed or Equivalent Experience, which came into force on 1<sup>st</sup> April 2000;
- (b) the Directions to the Family Health Services Appeal Authority on Appeals from Refusal to Grant Approval or Withdrawal of Approval as a GP Registrar Trainer, which came into force on 1<sup>st</sup> November 2000; and
- (c) the Directions as to the Functions of the Family Health Services Appeal Authority (Special Health Authority) 2002, which came into force on 1<sup>st</sup> April 2002.

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(a) Relevant amendments to paragraph 1 of Schedule 10 were made by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraphs 30(1) to (4); and by the 2001 Act, sections 14(3) and (4).

(b) S.I. 2005/502.

Signed by authority of the Secretary of State



A Member of the Senior Civil Service  
Department of Health

31<sup>st</sup> March 2005

SCHEDULE

PROVISIONS OF SCHEDULE 10 OF THE NATIONAL HEALTH SERVICE ACT 1977  
CONFERRING FUNCTIONS ON THE SECRETARY OF STATE WHICH ARE TO BE  
EXERCISED BY THE AUTHORITY

<u>Provision of Schedule</u>	<u>Nature of function</u>
Paragraph 1(2)	Receipt of applications for a certificate that a transaction or series of transactions does not involve the sale of the goodwill of a medical practice
Paragraph 1(3)	(a) Consideration of applications for a certificate that a transaction or a series of transactions does not involve the sale of goodwill  (b) Issue of certificates (in the prescribed form and setting out all the material circumstances disclosed) where satisfied that the transaction or a series of transactions does not involve the sale of goodwill
Paragraph 1(7)	Provision of copies of any certificates issued under paragraph 1(3) of Schedule 10, together with copies of any documents produced in connection with the application for that certificate, to the Director of Public Prosecutions