

# NATIONAL HEALTH SERVICE ACT 1977

## Family Health Services Appeal Authority (Special Health Authority) and Primary Care Trust Directions 2004

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 of all other powers enabling him in that behalf, hereby gives the following Directions:

### Citation, commencement, application and interpretation

1.—(1) These Directions, which may be cited as the Family Health Services Appeal Authority (Special Health Authority) and Primary Care Trust Directions 2004, shall come into force on 21<sup>st</sup> September 2004.

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

(3) In these Directions—

“the Authority” means the Family Health Services Appeal Authority (Special Health Authority) established by the Family Health Services Appeal Authority (Establishment and Constitution) Order 1995(b);

“list” means—

- (a) an ophthalmic list prepared by a Primary Care Trust under regulation 6 of the National Health Service (General Ophthalmic Services) Regulations 1986(c);
- (b) a dental list prepared by a Primary Care Trust under regulation 4 of the National Health Service (General Dental Services) Regulations 1992(d);
- (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(e); and
- (d) a medical performers list prepared by a Primary Care Trust pursuant to regulation 3(1) of the Performers Lists Regulations;

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

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

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(a) 1977 c.49. Section 16D was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 12(1) and amended by the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”), section 3 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 and the 2002 Act, Schedule 1, paragraph 7; section 18(3) was amended by the Health Authorities Act 1995 (c.17), section 3(8) and Schedule 1, paragraph 9 and by the 1999 Act, section 12(4).

(b) 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.

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

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

(e) S.I. 2003/250.

(f) S.I. 2004/585.

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

2.—(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 shall be exercisable by the Authority.

(5) The Authority shall comply with any request made by any Primary Care Trust under article 3(3) of these Directions.

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

3.—(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) of the Performers Lists Regulations, a Primary Care Trust has the function of disclosing information to the Secretary of State, the Primary Care Trust 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) 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 Act,

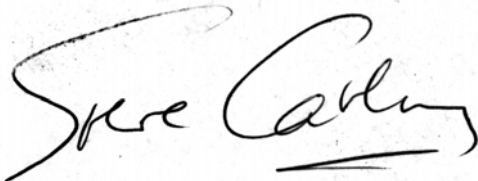
it may, in its exercise of that function, check with the Authority whether the Authority has any information concerning the practitioner and request the disclosure of it.

(4) 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**

4. The Family Health Services Appeal Authority (Special Health Authority) and Primary Care Trust Directions (No. 2) 2003 given on 31<sup>st</sup> October 2003 are revoked.

Signed by authority of the Secretary of State



20 September 2004

Department of Health  
A member of the Senior Civil Service

## SCHEDULE 1

Directions 2(1) and 3(1)

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

#### **The National Health Service (General Ophthalmic Services) Regulations 1986(a)**

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

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

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

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(c)**

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

#### **The Performers Lists Regulations**

Regulation 6(3)

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

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

## SCHEDULE 2

Direction 3(2)

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

#### PART 1

#### **The National Health Service (General Ophthalmic Services) Regulations 1986**

Regulation 7A(1)

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

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

Regulation 5(3ZA)

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(a) S.I. 1986/975, relevant amendments to which were made by S.I. 2001/3739.

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

(c) S.I. 2003/250.

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)

**PART 2**

**The Performers Lists Regulations**

Regulation 6(3)

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