

2005 No. 1445

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service Litigation Authority (Establishment and Constitution) Amendment (No. 2) Order 2005

<i>Made</i> - - - -	<i>2nd June 2005</i>
<i>Laid before Parliament</i>	<i>3rd June 2005</i>
<i>Coming into force</i> - -	<i>1st July 2005</i>

The Secretary of State for Health, in exercise of the powers conferred upon her by sections 11(1) and (2) and 126(3) and (4) of the National Health Service Act 1977(a), hereby makes the following Order:

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the National Health Service Litigation Authority (Establishment and Constitution) Amendment (No. 2) Order 2005 and shall come into force on 1st July 2005.

(2) This Order applies in relation to England.

(3) In this Order “the principal Order” means the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(b).

Amendment of article 1 of the principal Order

2. In article 1 of the principal Order, for paragraph (2) substitute—

“(2) In this Order—

“the Authority” means the National Health Service Litigation Authority established by this Order; and

“NHS body” means a Strategic Health Authority, a Special Health Authority, an NHS trust, an NHS foundation trust and a Primary Care Trust.”.

(a) 1977 c.49; section 11 was amended by section 2(1) of, and paragraph 2 of Schedule 1 to, the Health Authorities Act 1995 (c.17) (“the 1995 Act”) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c.8) (“the 1999 Act”); section 126(3) was amended by section 41(10) of, and paragraph 27 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 (c.46) and section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”); section 126(4) was amended by section 65(2) of the 1990 Act, section 65(1) of, and paragraphs 4 and 37(1) and (6) of Schedule 4 to, the 1999 Act, section 67(1) of, and paragraphs 5(1) and (13)(b) of Schedule 5 to, the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), sections 6(3)(c) and 37(1) of, and paragraphs 1 and 10(a) of Schedule 8 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17) and section 184 of, and paragraph 38 of Schedule 11 and Part 4 of Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c.43) (“the 2003 Act”). The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and 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.

Amendment of article 3 of the principal Order

3. For article 3 of the principal Order substitute —

“Functions of the Authority

3. Subject to and in accordance with such directions as the Secretary of State may give to the Authority, the Authority shall perform on behalf of the Secretary of State—

- (a) such of her functions in connection with the establishment and administration of a scheme under section 21 of the National Health Service and Community Care Act 1990 (scheme for meeting liabilities of health service bodies);
- (b) such of her appellate and other functions in connection with the decisions and functions of Primary Care Trusts;
- (c) such of her functions in connection with advice about and assistance with litigation or potential litigation which involves an NHS body; and
- (d) such other functions,

as the Secretary of State may direct.”.

Signed by authority of the Secretary of State for Health

2nd June 2005

Liam Byrne
Parliamentary Under Secretary of State for Care Services,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the National Health Service Litigation Authority (Establishment and Constitution) Order 1995 to confer on the Authority a new function of providing advice and assistance to NHS bodies in connection with litigation.

£3.00

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E0864 6/2005 150864T 19585

