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STATUTORY INSTRUMENTS

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**2000 No. 695**

**The Primary Care Trusts (Functions)  
(England) Regulations 2000**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Primary Care Trusts (Functions) (England) Regulations 2000 and shall come into force on 1st April 2000.

(2) These Regulations apply only in relation to Health Authorities and Primary Care Trusts established for areas in England.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

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

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(1);

“appropriate Health Authority” means, in relation to a Primary Care Trust, the Health Authority within whose area the trust is established;

“delegable function” is to be construed in accordance with section 17A(2) of the Act;

“the Functions Regulations” means the National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996(2);

“research ethics committee” means a committee established or recognised by a Health Authority to advise on the ethics of research investigations on human beings;

“PCT order” shall be construed in accordance with section 16A(2) of the Act(3);

“population screening programme” means a programme for testing a particular class of persons for the purpose of detecting whether those persons have a particular illness or are at risk of contracting such an illness;

“practice patient” means—

(a) in relation to a medical practitioner who practices otherwise than in partnership, an individual who is on that practitioner’s list of patients (or, if that practitioner and one or more other medical practitioners together have a single list of patients in connection with a pilot scheme under the 1997 Act(4), an individual who is on that single list);

(b) in relation to a medical practitioner who is one of two or more practitioners who practise in partnership with each other, an individual who is on the list of patients of any of those practitioners (or, if any of those practitioners together have a single list of patients in connection with a pilot scheme under the 1997 Act, an individual who is on that single list);

“the relevant date” means—

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(1) 1997 c. 46.

(2) S.I. 1996/708, as amended by S.I. 1998/646, 1999/628 and 2000/267.

(3) Section 16A was inserted by section 2(1) of the 1999 Act.

(4) See section 1 of the 1997 Act for the definition of “pilot scheme”.

- (a) 1st April 2000;
- (b) 1st April in the year preceding the year in which the identity of the relevant Health Authority or relevant Primary Care Trust falls to be determined;
- (c) in the case of a practitioner providing general medical services and who practices otherwise than in partnership, the date on which he first entered the Health Authority's medical list;
- (d) in the case of a practitioner providing general medical services who is one of two or more practitioners who practise in partnership with each other, the earliest date on which any one of those practitioners entered the Health Authority's medical list;
- (e) in the case of a practitioner performing personal medical services in connection with a pilot scheme under the 1997 Act, the date on which services were first performed under that scheme; or
- (f) the date on which the Primary Care Trust in question was established, whichever is the latest;

“relevant Health Authority” means—

- (a) in relation to a medical practitioner—
  - (i) who provides general medical services under Part II of the Act and does not perform personal medical services in connection with a pilot scheme;
  - (ii) whose name is included in the medical list of only one Health Authority; and
  - (iii) who practises on his own or in partnership with others all of whom are medical practitioners who provide general medical services under Part II of the Act and do not perform personal medical services in connection with a pilot scheme and whose names are included only in that Authority's medical list,
 that Authority;
- (b) in relation to any other medical practitioner, the Health Authority in whose area, on the relevant date, most of the practitioner's practice patients at that date were living;

“relevant Primary Care Trust” means, in relation to a medical practitioner, the Primary Care Trust—

- (a) which is in the area of the Health Authority which is the practitioner's relevant Health Authority, and
- (b) in whose area, at the relevant date, most of the practitioner's practice patients living at that date in the area of that authority were living.

(2) In Schedule 2, “suspended doctor” means a medical practitioner who is suspended as respects the provision of general medical services by a direction of the Tribunal constituted under section 46 of the Act made pursuant to section 49A(2) or section 49B(1) of the Act (or to any provisions in force in Scotland or Northern Ireland corresponding to those provisions).

(3) For the purposes of these Regulations, the persons for whom a Primary Care Trust is responsible in any year are—

- (a) the practice patients of the medical practitioners providing general medical services under the Act, or performing personal medical services in connection with a pilot scheme under the 1997 Act, in respect of whom the trust is the relevant Primary Care Trust;
- (b) the persons usually resident in the area for which the trust is established and who are not practice patients of any medical practitioner providing general medical services under the Act or performing personal medical services in connection with a pilot scheme under the 1997 Act.

(4) Subject to any directions which the Secretary of State may give as to any particular case or classes of case, if there is doubt as to where a person is usually resident for the purposes of paragraph (3)(b)–

- (a) he shall be treated as usually resident at the address which he gives, to the person or body providing him with services, as being that at which he usually resides;
- (b) where he gives no such address, he shall be treated as usually resident at the address which he gives, to the person or body providing him with services, as being his most recent address;
- (c) where his usual residence cannot be determined under sub-paragraphs (a) and (b) above; he shall be treated as usually resident in the area in which he is present.

### **Functions to be exercised by Primary Care Trusts**

3.—(1) Subject to regulation 6 and to any prohibitions or restrictions in a PCT order–

- (a) the functions specified in paragraph (2) are to be exercisable by a Primary Care Trust to the extent specified in paragraphs (3) to (7); and
- (b) each Health Authority must direct each Primary Care Trust in relation to which they are the appropriate Health Authority to exercise those functions to that extent.

(2) The functions referred to in paragraph (1) are–

- (a) those delegable functions exercisable by virtue of regulation 3(1) of the Functions Regulations and which are conferred on the Secretary of State under or by virtue of the enactments specified in column (1) of Schedule 1 to these Regulations (the subject matter of the relevant functions being indicated in column (2) of that Schedule);
- (b) those delegable functions exercisable under or by virtue of the enactments specified in column (1) of Schedule 2 to these Regulations (the subject matter of the relevant functions being indicated in column (2) of that Schedule);
- (c) those delegable functions exercisable under or by virtue of the regulations specified in column (1) of Schedule 3 to these Regulations, to the extent specified in column (2) of that Schedule.

(3) Paragraph (1) does not apply to the functions specified in paragraph (2) to the extent that they consist of providing or securing the provision of such facilities or services as the Secretary of State may direct; but, subject to any directions given by the Secretary of State, nothing in this paragraph prevents an appropriate Health Authority from directing a Primary Care Trust to exercise those functions to that extent, in accordance with regulation 5.

(4) Subject to paragraph (7), the functions specified in paragraph (2) are to be exercised by a Primary Care Trust–

- (a) in so far as those functions consist of providing or securing the provision of services to patients, other than the services specified in sub-paragraphs (b) to (e), for the benefit of the persons for whom the trust is responsible;
- (b) in so far as those functions consist of providing or securing the provision of–
  - (i) accident and emergency services; and
  - (ii) any other services which the Secretary of State may direct, for the benefit of all persons present in its area;
- (c) in so far as those functions consist of providing and securing the provision of services under section 117 of the Mental Health Act 1983 (after-care of persons detained under that Act), for the benefit of persons who leave hospital after being detained under the Act and are resident in, or sent on discharge by that hospital to, the trust's area;

- (d) in so far as those functions relate to general medical services, in relation to any medical practitioner on the medical list of the appropriate Health Authority and for which the trust is the relevant Primary Care Trust;
  - (e) in so far as those functions relate to pilot schemes under the 1997 Act, for the benefit of persons within the area of the appropriate Health Authority and for whom the trust is responsible;
  - (f) in so far as those functions consist of any other functions, generally as respects its area.
- (5) The functions under section 45(1) of the Act (consultation of local representative committees) are to be exercisable by a Primary Care Trust only in so far as they relate to any function specified in paragraph (2)(c) relating to general medical services.
- (6) The functions under the 1997 Act are not to be exercisable by a Primary Care Trust to the extent that they relate to a pilot scheme made before the date on which the trust was established, except with the consent of the persons providing services under that scheme.
- (7) The functions specified in paragraph (2) are to be exercisable by a Primary Care Trust only to the extent that they do not consist of—
- (a) providing or securing the provision of emergency ambulance services;
  - (b) ensuring that arrangements for public health surveillance and protection are in place with respect to the area of the appropriate Health Authority, including arrangements for—
    - (i) the surveillance, prevention and control of the spread of, and the collation and provision of information relating to, communicable disease;
    - (ii) the surveillance, prevention and control of the effects on health of exposure to radiation or to substances hazardous to health; and
    - (iii) the collation and provision of information relating to immunisation, vaccination and other public health programmes;
  - (c) preparing plans setting out the arrangements under which health service bodies in the area of the appropriate Health Authority respond to major incidents;
  - (d) establishing or funding research ethics committees;
  - (e) securing the provision of cancer registration services; or
  - (f) preparing and implementing population screening programmes.
- (8) In this regulation, references to accident and emergency services are references to those services provided at the accident and emergency department, or a minor injuries unit, of a health service hospital, and do not include any subsequent treatment connected with the provision of those services.

### **Functions not to be exercisable by Primary Care Trusts**

4.—(1) The delegable functions exercisable under or by virtue of the enactments specified in column (1) of Schedule 4 to these Regulations (the subject matter of the relevant functions being indicated in column (2) of that Schedule) are not to be exercisable by a Primary Care Trust.

(2) Delegable functions relating to general medical services, other than those functions specified in regulation 3(2), are not to be exercisable by a Primary Care Trust.

(3) Any function conferred on a Health Authority with respect to the giving of any directions is not to be exercisable by a Primary Care Trust.

(4) A Health Authority may not direct a Primary Care Trust to exercise any of the functions referred to in paragraphs (1) to (3).

### **Other functions which may be exercisable by a Primary Care Trust**

5. Subject to regulation 6, a Health Authority may direct a Primary Care Trust in relation to which they are appropriate Health Authority to exercise—

- (a) any delegable function which is neither a function which is to be exercised by a Primary Care Trust under regulation 3 nor a function which may not be exercised by a Primary Care Trust under regulation 4; and
- (b) any functions specified in regulation 3(2) to an extent greater than that specified in regulation 3(3) or (4).

### **Restriction on the exercise of functions by Primary Care Trusts**

6.—(1) The exercise by a Primary Care Trust of the functions specified in regulations 3(2) or 5 is subject to such limitations as the Secretary of State may direct, and must be in accordance with any directions which are given by the Secretary of State or, subject to any such directions by the appropriate Health Authority.

(2) The power under section 2 of the Act (Secretary of State's general power as to services) is to be exercisable by a Primary Care Trust only to such extent as is necessary for the proper exercise of one or more of its other functions.

(3) Where, in the exercise of functions specified in regulation 3(2)(a), arrangements are made by a Primary Care Trust with medical practitioners for the vaccination or immunisation of persons against disease, every medical practitioner providing general medical services in that trust's area shall, so far as is reasonably practicable, be given an opportunity to participate in the arrangements.

(4) Except where the Secretary of State otherwise directs, a Primary Care Trust must not exercise the functions of the Secretary of State under section 51(1) of the Act in so far as those functions are concerned with securing the availability of facilities for clinical teaching.

(5) A Primary Care Trust must not exercise the power under section 18A(2) of the Act (provision of goods and services under NHS contracts)(5) so as to arrange for the provision by the trust to another health service body of goods or services which are of the same description as those which the trust has the power to provide only by reason of section 18A(4) (provision of accommodation and services to private patients) and (5) (provision of goods, services etc. for purpose of making more income available for improving the health service).

Signed by authority of the Secretary of State

10th March 2000

*Gisela Stuart*  
Parliamentary Under-Secretary of State,  
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(5) Section 18A was inserted by section 5 of the 1999 Act.