

2002 No. 1073

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Clinical Negligence Scheme)
Amendment Regulations 2002**

<i>Made</i> - - - -	<i>11th April 2002</i>
<i>Laid before Parliament</i>	<i>15th April 2002</i>
<i>Coming into force</i>	<i>6th May 2002</i>

The Secretary of State for Health, in exercise of the powers conferred by section 126(4) of the National Health Service Act 1977(a), and section 21 of the National Health Service and Community Care Act 1990(b) and of all other powers enabling him in that behalf, and with the consent of the Treasury, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service (Clinical Negligence Scheme) Amendment Regulations 2002, and shall come into force on 6th May 2002.

(2) In these Regulations “the principal Regulations” means the National Health Service (Clinical Negligence Scheme) Regulations 1996(c).

(3) These Regulations extend to England only(d).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (interpretation), in the definition of “relevant function” after the words “services in England” insert the words “or securing the provision of services” and for “paragraph 14 or 15” substitute “paragraphs 13, 14 or 15(e).”.

Amendment of regulation 3 of the principal Regulations

3. Regulation 3(1) of the principal Regulations(f) (eligible bodies) is amended as follows:—

(a) at the end of sub-paragraph (c) omit the word “or”, and

(b) at the end of sub-paragraph (d) add—

“, or

(e) the Public Health Laboratory Service Board(g).”.

(a) 1977 c.49; (“the 1977 Act”); section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”) and paragraph 37(6) of Schedule 4 to the Health Act 1999 (c.8) (“the 1999 Act”).

(b) 1990 (c.19) see for the definition of “regulations”, section 128(1) of the 1977 Act.

(c) S.I. 1996/251; relevant amending instruments are S.I. 1997/527 and 2000/2341.

(d) The functions of the Secretary of State under section 126(4) of the 1977 Act and section 21 of the 1990 Act were transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999. S.I. 1999/672. Article 2 and Schedule 1 as amended by section 66(5) of the 1999 Act.

(e) Regulation 1(2) was amended by S.I. 1997/527.

(f) Regulation 3(1) was amended by S.I. 1997/527, regulation 3 and S.I. 2000/2341, regulation 2.

(g) See section 5(4–5) of and Schedule 3 to the 1977 Act.

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 of the principal Regulations (liabilities to which the Scheme applies) insert “(1)” at the beginning and at the end add the following paragraph—

“(2) The reference in paragraph (1) to any act or omission to act on the part of a person engaged by a member includes any act or omission to act on the part of an employee or agent of the person so engaged.”.

Signed by authority of the Secretary of State for Health

11th April 2002

Hazel Blears
Parliamentary Under Secretary of State
Department of Health

11th April 2002

John Heppell
Tony McNulty
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Clinical Negligence Scheme) Regulations 1996 which established a Scheme whereby NHS trusts and certain other bodies providing NHS services may make provision for meeting liabilities to third parties in connection with personal injury arising out of negligence in the carrying out of their functions.

Regulation 3 provides for the Public Health Laboratory Service Board to be eligible to participate in the Scheme.

Regulation 2 amends the definition of “relevant function” to include arrangements made for securing the provision of certain NHS services whether in England or elsewhere and regulation 4 provides that the liabilities to which the Scheme applies includes those in consequence of any act or omission to act on the part of any employee or agent of a person engaged by a member in connection with any relevant function of that member.

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