
STATUTORY INSTRUMENTS

2005 No. 497

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Institute for Clinical Excellence
(Establishment and Constitution) Amendment Order 2005**

<i>Made</i>	- - - -	<i>7th March 2005</i>
<i>Laid before Parliament</i>		<i>10th March 2005</i>
<i>Coming into force</i>	- -	<i>1st April 2005</i>

The Secretary of State for Health, in exercise of the powers conferred by sections 11(1), (2) and (4) and 126(3) and (4) of the National Health Service Act 1977⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the National Institute for Clinical Excellence (Establishment and Constitution) Amendment Order and shall come into force on 1st April 2005.

(2) This Order applies in England.

(3) In this Order—

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

“the principal Order” means the National Institute for Clinical Excellence (Establishment and Constitution) Order 1999⁽²⁾;

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- (1) 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) 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 (“the Transfer Order”); see the entry in Schedule 1 for the National Health Service Act 1977 as amended by section 66(4) and (5)(a) of the 1999 Act, section 67(1) of, and paragraph 12(1) and (3) of Schedule 5 to, the 2001 Act and section 196 of, and Part 4 of Schedule 14 to, the Act 2003. This Order is made by the Secretary of State in exercise of concurrent powers with the National Assembly for Wales. See article 2(c) of the Transfer Order.
- (2) S.I. 1999/220 as amended by S.I. 1999/2219 and 2002/1760.

“public funds” means monies provided by Parliament.

Amendment of Article 2 of the principal Order

2. In Article 2 of the principal Order (Establishment of the National Institute for Clinical Excellence) after the word “for” insert the words “Health and”.

Amendment of Article 3 of the principal Order

3. For Article 3 of the principal Order (functions of the Institute) substitute the following—

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

- (a) such functions in connection with the promotion of clinical excellence, and the effective use of available resources in the health service,
- (b) such functions in connection with the promotion of excellence in public health provision and promotion and in that connection the effective use of resources available in the health service and other available public funds,
- (c) such other functions

as the Secretary of State may direct”.

Amendment of Article 4 of the Principal Order

4. Article 4 of the principal Order (constitution of the Institute) is amended as follows—

- (a) in paragraph (1)(b) delete the word “eight” and substitute the words “not less than eight or more than ten”,
- (b) in paragraph (1)(c) for the word “five” substitute the word “six” and after the words “Chief Finance Officer” delete the words to the end and add the words “Director of Clinical and Public Health and Director of Health Improvement.”.

Consequential amendment of Orders and Regulations

5. The amendments in the Schedule are made in consequence of the change in the name of the Institute.

Signed by authority of the Secretary of State for Health

7th March 2005

Warner
Parliamentary Under Secretary of State,
Department of Health

THE SCHEDULE

Article 5

AMENDMENTS CONSEQUENTIAL ON THE CHANGE OF NAME OF THE NATIONAL INSTITUTE FOR CLINICAL EXCELLENCE

The National Health Service Trusts (Membership and Procedure) Regulations 1990

1. In paragraph 11(5) of the National Health Service Trusts (Membership and Procedure) Regulations 1990(3) (disqualification for appointment of chairman and non-executive directors) for the words in sub-paragraph (e) substitute “the National Institute for Health and Clinical Excellence”.

The Health Authorities (Membership and Procedure) Regulations 1996

2. In Schedule 2 to the Health Authorities (Membership and Procedure) Regulations 1996(4) (Special Health Authorities of which the chairman and members are not disqualified under regulation 10(1)(g)) for “National Institute for Clinical Excellence” substitute “National Institute for Health and Clinical Excellence”.

The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

3. In Schedule 1 to the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(5) (Special Health Authorities of which the chairman and members are not disqualified under regulation 5(1)(e)) for “National Institute for Clinical Excellence” substitute “National Institute for Health and Clinical Excellence”.

The Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2003

4. In the Schedule to the Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2003(6) for “National Institute for Clinical Excellence” substitute “National Institute for Health and Clinical Excellence”.

The Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003

5. In Schedule 1 to the Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003(7) for “National Institute for Clinical Excellence” substitute “National Institute for Health and Clinical Excellence”.

(3) [S.I. 1990/2024](#); relevant amending statutory instruments are [S.I. 1997/2990](#), [S.I. 2000/2434](#) and [S.I. 2001/2629](#).

(4) [S.I. 1996/707](#); relevant amending statutory instruments are [S.I. 1999/946](#) and [S.I. 2000/696](#).

(5) [S.I. 2000/89](#); relevant amending statutory instrument is [S.I. 2002/38](#).

(6) [S.I. 2003/983](#).

(7) [S.I. 2003/1324](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the National Institute for Clinical Excellence (Establishment and Constitution) Order 1999 to change the name of the Institute to the National Institute for Health and Clinical Excellence (article 2), to give the Institute additional functions (article 3), to increase the number of members of the Institute who are not officers from eight to not less than eight but not more than ten, to increase the number of members who are officers of the Institute from five to six and to change the office of Clinical Director to that of the Director of Clinical and Public Health and to provide that one of the officer members shall be the Director of Health Improvement (article 4).

The Order also makes the consequential amendments referred to in the Schedule (article 5).