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STATUTORY INSTRUMENTS

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**2011 No. 2323**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Health Research Authority  
(Establishment and Constitution) Order 2011**

<i>Made</i>	- - - -	<i>22nd September</i> <i>2011</i>
<i>Laid before Parliament</i>		<i>27th September 2011</i>
<i>Coming into force</i>	- -	<i>1st December 2011</i>

The Secretary of State for Health makes the following Order in exercise of the powers conferred by sections 28(1), (2) and (4), 272(7) and (8) of the National Health Service Act 2006<sup>(1)</sup>.

The Secretary of State has consulted such bodies as the Secretary of State recognises as representing officers who in the Secretary of State's opinion are likely to be transferred or affected by transfers in pursuance of this Order<sup>(2)</sup>.

**Citation, commencement, application and interpretation**

1.—(1) This Order may be cited as the Health Research Authority (Establishment and Constitution) Order 2011 and comes into force on 1st December 2011.

(2) This Order applies in relation to England only.

(3) In this Order—

“the Agency” means the National Patient Safety Agency<sup>(3)</sup>;

“the Authority” means the Health Research Authority established by article 2 of this Order;

“Research Ethics Committee” means a group of people appointed to assess whether research proposals relating to the health service conform to recognised ethical standards;

“transfer date” means 1st December 2011.

**Establishment of the Authority**

2. There is established a Special Health Authority which is to be known as the Health Research Authority.

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(1) 2006 c.41. The powers of the Secretary of State under the provisions of the Act under which this Order is made are exercisable only in relation to England by virtue of section 271 of the National Health Service Act 2006.

(2) See section 28(7) of the National Health Service Act 2006 for the requirement on the Secretary of State to consult.

(3) Established by S.I. 2001/1743, as amended by S.I. 2003/1077 and S.I. 2005/504.

### **Functions of the Authority**

3.—(1) The Authority is to exercise—

(a) such functions in connection with—

(i) the facilitation and promotion of research;

(ii) the establishment of Research Ethics Committees, and the appointment and indemnification of members of Research Ethics Committees; and

(b) such other functions;

as the Secretary of State may direct<sup>(4)</sup>.

(2) The Authority must exercise those functions subject to, and in accordance with, any directions given to it by the Secretary of State<sup>(5)</sup>.

### **Constitution of the Authority**

4. The membership of the Authority is to consist of two officers of the Authority, one of whom is to be the chief officer.

### **Transfer of officers from the Agency to the Authority**

5.—(1) This paragraph applies in relation to any person who—

(a) immediately before the transfer date is employed by the Agency; and

(b) has been notified in writing by the Agency by 30th November 2011 that they are to be transferred to the Authority.

(2) Any person to whom paragraph (1) applies is, on the transfer date, to be transferred to the employment of the Authority.

(3) The contract of employment of a person whose employment has transferred to the Authority under paragraph (2)—

(a) is not terminated by the transfer; and

(b) has effect from the transfer date as if originally made between that person and the Authority.

(4) Without prejudice to paragraph (3)—

(a) all the rights, powers, duties and liabilities of the Agency, under or in connection with its contract of employment with a person transferred under paragraph (2), are to transfer to the Authority on the transfer date; and

(b) anything done before the transfer date by or in relation to the Agency, in respect of that person or that person's contract of employment, is deemed to have been done by or in relation to the Authority.

(5) Paragraphs (2) to (4) do not have effect to transfer the contract of employment of a person to whom this article applies, or any rights, powers, duties and liabilities under, or in connection with, that contract, if, before the transfer date, that person has objected to the transfer to the Authority and has informed the Agency of that objection.

(6) Where a person to whom this article applies has objected to the transfer of that person's contract of employment as described in paragraph (5), that contract of employment is to terminate immediately before the date on which it would otherwise have transferred to the Authority.

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(4) See in particular section 7 of the National Health Service Act 2006.

(5) See in particular section 8 of the National Health Service Act 2006.

(7) A person whose contract of employment is terminated in accordance with paragraph (6) is not to be treated, for any purpose, as having been dismissed by the Agency.

(8) This article is without prejudice to any right of a person whose employment is transferred to the Authority to terminate that person's contract of employment if a substantial change is made to that person's detriment in that person's working conditions.

(9) No right mentioned in paragraph (8) is to arise by reason only that, under this article, the identity of the person's employer changes unless that person shows that, in all the circumstances, the change is a significant change and is to that person's detriment.

### **Transfer of property**

6. The property of the Agency listed in the Schedule to this Order is to be transferred to the Authority on the transfer date.

Signed by authority of the Secretary of State for Health.

22nd September 2011

*Earl Howe*  
Parliamentary Under-Secretary of State,  
Department of Health

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

## SCHEDULE

Article 6

### Property of the Agency to transfer to the Authority

1. The Integrated Research Application System (known as IRAS).
2. The Research Ethics Database (known as RED).
3. Information published, or otherwise held, by the Agency immediately prior to the transfer date for the purpose of exercising its functions in relation to Research Ethics Committees.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the establishment and constitution of a Special Health Authority under section 28 of the National Health Service Act 2006 to be known as the Health Research Authority (“the Authority”) to exercise such of the Secretary of State’s functions in connection with the facilitation and promotion of research and the establishment, and appointment of members to, Research Ethics Committees, and such other functions, as the Secretary of State may direct.

Article 2 of the Order establishes the Authority, the functions of which are described in article 3 and are to be specified more particularly in directions given to the Authority by the Secretary of State. Provision is also made for the constitution of the Authority (article 4) and for the transfer of staff and property from the National Patient Safety Agency to the Authority (articles 5 and 6 and the Schedule).

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.