



# National Health Service Reform and Health Care Professions Act 2002

## 2002 CHAPTER 17

### PART 1

#### NATIONAL HEALTH SERVICE, ETC

##### *NHS bodies and their functions: England*

#### **1 English Health Authorities: change of name**

- (1) On and after the date on which this section comes into force, Health Authorities for areas in England are to be known instead as Strategic Health Authorities.
- (2) Accordingly, for section 8 of the National Health Service Act 1977 (c. 49) (in this Act referred to as “the 1977 Act”) (establishment and abolition of Health Authorities) there is substituted—

#### **“8 Health Authorities and Strategic Health Authorities**

- (1) It is the duty of the Secretary of State to establish, in accordance with Part 1 of Schedule 5 to this Act, authorities to be called—
  - (a) Strategic Health Authorities, in the case of authorities established for areas in England;
  - (b) Health Authorities, in the case of authorities established for areas in Wales.
- (2) Subject to subsection (4) below—
  - (a) a Strategic Health Authority shall be established for such area of England as is specified in the order establishing the authority; and
  - (b) a Health Authority shall be established for such area of Wales as is so specified, or, if the order so provides, for the whole of Wales.

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- (3) A Strategic Health Authority or a Health Authority shall be known by such name, in addition to the title “Strategic Health Authority” or “Health Authority”, as—
- (a) appears to the Secretary of State appropriately to signify the connection of the authority with the area for which they are established; and
  - (b) is specified in the order establishing the authority.
- (4) The Secretary of State may by order—
- (a) vary the area of a Strategic Health Authority or Health Authority;
  - (b) abolish a Strategic Health Authority or Health Authority;
  - (c) establish a new Strategic Health Authority or Health Authority;
  - (d) change the name by which a Strategic Health Authority or Health Authority are known.
- (5) No order shall be made under this section relating to a Strategic Health Authority until after the completion of such consultation as may be prescribed.
- (6) Consultation requirements contained in regulations under subsection (5) are in addition to, and not in substitution for, any other consultation requirements which may apply.
- (7) The Secretary of State shall act under this section so as to ensure—
- (a) that the areas for which Strategic Health Authorities are at any time established together comprise the whole of England;
  - (b) that the areas for which Health Authorities are at any time established together comprise the whole of Wales; and
  - (c) that no area for which a Strategic Health Authority or a Health Authority are established extends both into England and into Wales.
- (8) The power to make incidental or supplemental provision conferred by section 126(4) below includes, in particular, in its application to orders made under this section, power to make provision for the transfer of staff, property, rights and liabilities.”
- (3) Schedule 1 (which contains amendments consequential upon this section) is to have effect.

## **2 Primary Care Trusts**

- (1) Section 16A of the 1977 Act (which provides for the establishment of Primary Care Trusts) is amended as provided in subsections (2) and (3).
- (2) For subsection (1) there is substituted—
- “(1) It is the duty of the Secretary of State to establish bodies to be known as Primary Care Trusts for areas in England with a view to their exercising functions in relation to the health service.
- (1A) The Secretary of State shall act under this section so as to ensure that the areas for which Primary Care Trusts are at any time established together comprise the whole of England.”
- (3) In subsection (3), after “the area” there is inserted “of England”.

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- (4) Schedule 5A to the 1977 Act (which makes further provision about Primary Care Trusts) is amended as follows—
- (a) in paragraph 2(3)—
    - (i) for “the Health Authority in whose area a Primary Care Trust is established to meet the costs” there is substituted “a Strategic Health Authority whose area includes any part of the area of a Primary Care Trust to meet costs”, and
    - (ii) in paragraph (b), after “meet” there is inserted “(or to contribute towards its meeting)”
  - (b) in paragraph 2(4), for “the Health Authority in whose area a Primary Care Trust is established” there is substituted “a Strategic Health Authority whose area includes any part of the area of a Primary Care Trust”,
  - (c) in paragraph 16(1), for “the Health Authority within whose area the trust’s area falls” there is substituted “each Strategic Health Authority whose area includes any part of the trust’s area”, and
  - (d) in paragraph 16(3), for “the Health Authority within whose area the trust’s area falls” there is substituted “any Strategic Health Authority whose area includes any part of the trust’s area”.
- (5) Schedule 2 (which contains amendments of the 1977 Act and of other enactments to reallocate functions of Health Authorities to Primary Care Trusts and to make certain connected amendments) is to have effect.

### **3 Directions: distribution of functions**

- (1) The 1977 Act is amended as follows.
- (2) In section 16D (Secretary of State’s directions: distribution of functions), in subsection (1), after “Special Health Authority” there is inserted “or a Primary Care Trust”.
- (3) For section 17A (Health Authority’s directions: distribution of functions) there is substituted—

#### **“17A Strategic Health Authority’s directions: distribution of functions**

- (1) A Strategic Health Authority may, in relation to any specified functions of theirs, direct a Primary Care Trust any part of whose area falls within their area to exercise those functions.
- (2) But a Strategic Health Authority may not so direct a Primary Care Trust in relation to any functions of the Strategic Health Authority arising under section 28C arrangements if the Primary Care Trust is providing any services in accordance with those arrangements.
- (3) The Secretary of State may direct Strategic Health Authorities that specified functions of theirs—
- (a) are to be exercisable, or exercisable to (or only to) any specified extent, by Primary Care Trusts; or
  - (b) are not to be exercisable by Primary Care Trusts,
- and that the power in subsection (1) above is to be exercised accordingly.

(4) Directions under subsection (3)(a) above may include directions that any of the specified functions are to be exercised (or exercised to or only to any specified extent) jointly with the Strategic Health Authority, or jointly by one or more Primary Care Trusts; but such directions may be given only if regulations providing for the joint exercise of those functions have been made under section 16 or 16B above.

(5) In this section, “specified” means specified in the directions.”

(4) In section 17B (Health Authority’s directions: exercise of functions), in subsection (1), the words from “which” to the end are omitted.

(5) In section 18 (directions and regulations under preceding provisions), in subsection (1A)—

- (a) “or” is inserted after paragraph (a),
- (b) paragraph (b) is omitted, and
- (c) in paragraph (c), for “16D, 17 or 17A” there is substituted “16D or 17”.

#### **4 Personal medical services, personal dental services and local pharmaceutical services**

(1) In section 9 of the National Health Service (Primary Care) Act 1997 (c. 46) (relationship between Part 1 of that Act and the 1977 Act), after subsection (1) there is inserted—

“(1A) In subsection (1), the words from “, apart from” to “functions,” have effect only in relation to Wales.”

(2) In section 36 of the Health and Social Care Act 2001 (c. 15) (effect of the 1977 Act), after subsection (1) there is inserted—

“(1A) In subsection (1), the words from “, apart from” to “authority,” have effect only in relation to Wales.”

(3) Schedule 3 (which contains amendments of the National Health Service (Primary Care) Act 1997 and of other enactments related to the provisions of this section and sections 1 to 3) is to have effect.

#### **5 Local Representative Committees**

(1) Section 44 of the 1977 Act (recognition of local representative committees) is amended in accordance with subsections (2) to (7).

(2) Before subsection (A1) there is inserted—

“(ZA1) A Primary Care Trust may recognise a committee formed for its area, or for the area of that and one or more other Primary Care Trusts, which it is satisfied is representative of—

- (a) the medical practitioners providing general medical services or general ophthalmic services in the Primary Care Trust’s area;
- (b) those medical practitioners and the deputy medical practitioners for the Primary Care Trust’s area;
- (c) the medical practitioners mentioned in—
  - (i) paragraph (a) above; or

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(ii) paragraph (b) above,  
and the section 28C medical practitioners for the Primary Care Trust's area,  
and any committee so recognised shall be called the Local Medical Committee for the Primary Care Trust's area."

(3) After subsection (A1) there is inserted—

“(A2) A Primary Care Trust may recognise a committee formed for its area, or for the area of that and one or more other Primary Care Trusts, which it is satisfied is representative of—

- (a) the dental practitioners providing general dental services in the Primary Care Trust's area;
- (b) those dental practitioners and the deputy dental practitioners for the Primary Care Trust's area;
- (c) the dental practitioners mentioned in—
  - (i) paragraph (a) above; or
  - (ii) paragraph (b) above,

and the section 28C dental practitioners for the Primary Care Trust's area,  
and any committee so recognised shall be called the Local Dental Committee for the Primary Care Trust's area.”

(4) After subsection (B1) there is inserted—

“(B2) Where a Primary Care Trust is satisfied that a committee formed for its area, or for its area together with the area of one or more other Primary Care Trusts, is representative—

- (a) of the ophthalmic opticians providing general ophthalmic services in the Primary Care Trust's area; or
- (b) of the persons providing pharmaceutical services from premises in the Primary Care Trust's area,

the Primary Care Trust may recognise that committee; and any committee so recognised shall be called the Local Optical Committee or the Local Pharmaceutical Committee, as the case may be, for the area of the Primary Care Trust.”

(5) In subsection (2), “with the approval of the Health Authority” is omitted.

(6) In subsection (3)—

- (a) in each of paragraphs (a) and (c), before “Health Authority” there is inserted “Primary Care Trust or”,
- (b) after paragraph (a) there is inserted—
  - “(aa) is a section 28C medical practitioner for the area of a Primary Care Trust if he is a medical practitioner who performs personal medical services in the area of the Primary Care Trust in accordance with arrangements made under section 28C above;”, and
- (c) after paragraph (c) there is inserted—
  - “(ca) is a section 28C dental practitioner for the area of a Primary Care Trust if he is a dental practitioner who performs

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personal dental services in the area of the Primary Care Trust in accordance with arrangements made under section 28C above;”.

- (7) In subsection (4), after “notified the” there is inserted “Primary Care Trust or”.
- (8) Section 45 of the 1977 Act (functions of local representative committees) is amended as follows.
- (9) After subsection (1) there is inserted—
- “(1ZA) Regulations may require—
- (a) Primary Care Trusts, in the exercise of their functions under this Part of this Act, to consult committees recognised by them under section 44 above,
  - (b) Strategic Health Authorities, in the exercise of any of their functions which relate to arrangements under section 28C above, to consult committees recognised under section 44(ZA1)(c) or (A2)(c) above by Primary Care Trusts for the area or areas where the personal medical or dental services are provided (or to be provided) under the arrangements,
- on such occasions and to such extent as may be prescribed.”
- (10) In subsection (1A)—
- (a) for “power conferred by subsection (1) above is” there is substituted “powers conferred by subsections (1) and (1ZA) above are”, and
  - (b) after “require a” there is inserted “Strategic Health Authority, Primary Care Trust or”.
- (11) In subsection (1C)—
- (a) for “subsection (A1)(b) or (c) or (B1)(b) or (c)” there is substituted “subsection (ZA1)(b) or (c), (A1)(b) or (c), (A2)(b) or (c) or (B1)(b) or (c)”,
  - (b) before paragraph (a) there is inserted—
    - “(za) in the case of a committee recognised under subsection (ZA1) (b) or (c)(ii) of that section, to the deputy medical practitioners for the Primary Care Trust’s area;
    - (zb) in the case of a committee recognised under subsection (ZA1) (c) of that section, to the section 28C medical practitioners for that area;”, and
  - (c) after paragraph (b) there is inserted—
    - “(ba) in the case of a committee recognised under subsection (A2) (b) or (c)(ii) of that section, to the deputy dental practitioners for the Primary Care Trust’s area;
    - (bb) in the case of a committee recognised under subsection (A2) (c) of that section, to the section 28C dental practitioners for that area;”.
- (12) In each of subsections (2) and (3), before “Health Authority”, in each place where it occurs, there is inserted “Primary Care Trust or”.