
STATUTORY INSTRUMENTS

2000 No. 695

NATIONAL HEALTH SERVICE, ENGLAND

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

| | | |
|-------------------------------|---------|------------------------|
| <i>Made</i> | - - - - | <i>10th March 2000</i> |
| <i>Laid before Parliament</i> | | <i>10th March 2000</i> |
| <i>Coming into force</i> | - - | <i>1st April 2000</i> |

The Secretary of State for Health, in exercise of powers conferred on him by sections 17, 17A(4), 18(1) and (1A) and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

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(2);

“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;

(1) 1977 c. 49; section 17 was substituted, and section 17A inserted, by the Health Act 1999 (c. 8) (“the 1999 Act”), section 12(1); section 18(1) and (1A) was substituted by the 1999 Act, section 12(3); section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 65(2) and by the 1999 Act, Schedule 4, paragraph 37(6); see section 128(1), as amended by section 26(2)(i) and (g) of the 1990 Act, for the definitions of “prescribed” and “regulations”. 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 the entry for the 1977 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(2) 1997 c. 46.

“the Functions Regulations” means the National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996⁽³⁾;

“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⁽⁴⁾;

“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⁽⁵⁾, 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–

- (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;

⁽³⁾ S.I. 1996/708, as amended by S.I. 1998/646, 1999/628 and 2000/267.

⁽⁴⁾ Section 16A was inserted by section 2(1) of the 1999 Act.

⁽⁵⁾ See section 1 of the 1997 Act for the definition of “pilot scheme”.

- (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.

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(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)(6) 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,
Department of Health

(6) Section 18A was inserted by section 5 of the 1999 Act.

SCHEDULE 1

Regulation 3(2)(a)

ENACTMENTS CONFERRING FUNCTIONS WHICH ARE EXERCISABLE
BY HEALTH AUTHORITIES UNDER THE FUNCTIONS REGULATIONS
AND WHICH ARE TO BE EXERCISED BY PRIMARY CARE TRUSTS

| <i>Column (1)</i> <i>Enactment</i> | <i>Column (2)</i> <i>Subject matter</i> |
|--|---|
| Health Services and Public Health Act 1968— | |
| section 63(1), (5) and (6) | Providing for instruction of officers of Health Authorities and other persons employed or contemplating employment in activities connected with health or welfare |
| section 64(1) | Giving financial assistance to voluntary organisations |
| The Act— | |
| section 2 | Providing services considered appropriate for discharging duties imposed on the Secretary of State and doing other things calculated to facilitate the discharge of such duties |
| section 3(1)(a) and (b) | Providing hospital and other accommodation |
| section 3(1)(c) | Providing medical, dental and ambulance services |
| section 3(1)(d) | Providing facilities for the care of expectant and nursing mothers and young children |
| section 3(1)(e) | Providing facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered illness |
| section 3(1)(f) | Providing other services required for the diagnosis or treatment of illness |
| section 5(1)(a) and (1A), and paragraph 1 of Schedule 1(7) | Providing for the medical inspection and treatment of pupils, their dental inspection and treatment and their education in dental health |
| section 5(2)(b) | Providing accommodation and treatment outside Great Britain for persons suffering from respiratory tuberculosis |
| section 5(2)(d) | Conducting or assisting, by grants or otherwise, persons to conduct research into matters relating to illness or other matters connected with a service under the Act. |

(7) Section 5(1) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), Schedule 3; section 5(1A) and (1B) was inserted by the 1988 Act, section 10(1); Schedule 1 was amended by the 1988 Act, Schedule 2, paragraph 7 and the Education Act 1996 (c. 56), Schedule 37, paragraph 46.

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| <i>Column (1)</i> <i>Enactment</i> | <i>Column (2)</i> <i>Subject matter</i> |
|---------------------------------------|--|
| section 23(1) | Arranging with any person or body (including a voluntary organisation) for that person or body to provide or assist in providing any service under the Act |
| section 23(2) | Making available to certain persons or bodies (including voluntary organisations) facilities and services of persons employed in connection with such facilities |
| section 23(3) | Agreeing terms and payments in connection with arrangements made under section 23 of the Act |
| section 26(1) | Supplying goods, services and other facilities to local authorities and other public bodies and carrying out maintenance work in connection with any land or building the maintenance of which is a local authority responsibility |
| section 26(2) | Supplying prescribed goods, materials or other facilities to person providing general medical services, general dental services, general ophthalmic services or pharmaceutical services |
| section 26(3) | Making available to local authorities any services or other facilities and the services of employed persons to enable local authorities to discharge their functions relating to social services, education and public health |
| section 26(4) | Making available to local authorities the services of practitioners to enable such authorities to discharge their functions relating to social services, education and public health |
| section 27(1) and (2) | Providing for consultation before the services of any officer of a Primary Care Trust are made available to a local authority |
| section 27(4) | Agreeing terms and charging for services and facilities provided under section 26 of the Act |
| section 51(1) | Securing the availability of facilities for research connected with clinical medicine or dentistry |
| section 83A(1)(b) | Paying travelling expenses in prescribed circumstances |
| section 83A(1)(c) | Re-imbusement of Health Authorities, Primary Care Trusts and NHS trusts, of payments of travelling expenses |
| section 121 | Determining charges for prescribed services provided in respect of prescribed non-residents |

SCHEDULE 2

Regulation 3(2)(b)

OTHER ENACTMENTS CONFERRING FUNCTIONS
TO BE EXERCISED BY PRIMARY CARE TRUSTS

| <i>Column (1)</i> <i>Enactments</i> | <i>Column (2)</i> <i>Subject matter</i> |
|--|--|
| The Act– | |
| section 45(1) | Consulting local medical committees |
| Mental Health Act 1983(8)– | |
| section 25A(6) to (8) | Accepting applications for supervision of persons leaving hospital after detention under the Mental Health Act 1983, consulting local social services authority before acceptance and informing patients and other persons that an application has been accepted |
| section 25C(6) | Consenting to amendments to applications under section 25A or recommendations under section 25B |
| section 25D(1) | Imposing requirements for the purpose of securing that a patient receives after-care under supervision |
| section 25E | Reviewing and modifying after-care under supervision and informing a patient and other persons of the name of the person who becomes the community responsible medical officer or supervisor |
| section 25F(1) and (4) | Receiving reclassification reports and informing the patient and the patient’s nearest relative |
| section 25G(3) and (8) | Receiving renewal reports and informing the patient and other persons |
| section 25H(6) | Informing the patient and other persons that the patient has ceased to be subject to after-care under supervision |
| section 117(2) | Providing after-care services for a person leaving hospital after detention under the Mental Health Act 1983 |
| section 117(2A) | Securing that while a patient is subject to after-care under supervision a registered medical practitioner approved for the purposes of section 12 of the Mental Health Act 1983 is in charge of his medical treatment and that a |

(8) 1983 c. 20; sections 25A to 25H were inserted by section 1 of the Mental Health (Patients in the Community) Act 1995 (c. 52).

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| <i>Column (1)</i> <i>Enactments</i> | <i>Column (2)</i> <i>Subject matter</i> |
|---|--|
| section 140 | person professionally concerned with any of the after-care services is supervising the patient |
| The National Health Service and Community Care Act 1990(9)– | Notifying local social services authorities of hospitals having arrangements for reception of urgent cases |
| section 18 | Indicative amounts for doctor’s practices |
| The 1997 Act– | |
| sections 1 and 2 | Making agreements for the provision of personal medical services under a pilot scheme |
| section 6 | Implementing proposals for a pilot scheme and publishing details of the scheme |

SCHEDULE 3

Regulation 3(2)(c)

REGULATIONS CONFERRING FUNCTIONS TO BE EXERCISABLE BY PRIMARY CARE TRUSTS

| <i>Column (1)</i> <i>Regulations</i> | <i>Column (2)</i> <i>Extent</i> |
|--|--|
| The National Health Service (General Medical Services) Regulations 1992(10)– | |
| regulations 34 and 34A (payments to doctors) | In so far as the functions exercisable by a Health Authority under or by virtue of those regulations consist of, or relate to, the reimbursement of expenses of persons providing general medical services or suspended doctors and the determination of the amounts of such reimbursement– (a) where those expenses consist of– (i) the costs of providing practice premises, including the surrender of a lease on unsatisfactory premises and the improvement of existing premises(11); |

(9) 1990 c. 19.

(10) S.I. 1992/635; regulation 34 was amended by S.I. 1993/540 and 1997/2468; regulation 34A was inserted by S.I. 1995/3093; regulations 34B and Schedule 7A were inserted by S.I. 1997/2468; regulation 35 was amended by S.I. 1996/702 and 1997/2468.

(11) See paragraphs 51 (excluding “notional rent” under 51.22, 51.24–25 and 51.38–49), 55 and 56 of the “Statement of Fees and Allowances payable to General Medical Practitioners in England and Wales” (1996 edition) prepared under regulation 34 of the National Health Service (General Medical Services) Regulations 1992 (“the Statement”), a copy of which may be obtained by writing to the Department of Health, PC-GMS, Room 7E01, Quarry House, Leeds, LS2 7UE.

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| <i>Column (1)</i> <i>Regulations</i> | <i>Column (2)</i> <i>Extent</i> |
|--|--|
| | (ii) expenditure on practice staff ⁽¹²⁾ ; and (iii) the costs of purchasing, upgrading, leasing or maintaining a computer system ⁽¹³⁾ , and (b) which are designated expenses for the purpose of paragraph 1(2)(a) of Schedule 12A to the Act ⁽¹⁴⁾ , excluding the direct reimbursement of expenses incurred in delivering general medical services to NHS patients outside normal hours under the Out of Hours Development Scheme ⁽¹⁵⁾ . |
| regulation 34B and Schedule 7A (GMS local development schemes) | Fully |
| regulation 35 (claims and overpayments) | In so far as the functions under or by virtue of that regulation concern claims for, or the recovery of, payments under regulations 34 and 34A in respect of the expenses referred to in the entry in this column relating to those regulations. |
| The National Health Service (Functions of Health Authorities) (Prescribing Incentive Schemes) Regulations 1998 ⁽¹⁶⁾ | Fully |

SCHEDULE 4

Regulation 4(1)

DELEGABLE FUNCTIONS WHICH ARE NOT TO BE EXERCISED BY A PRIMARY CARE TRUST

| <i>Column (1)</i> <i>Enactments</i> | <i>Column (2)</i> <i>Subject matter</i> |
|--|---|
| Health and Safety at Work Act 1974— section 60(1) | Arranging for medical practitioners to furnish medical records etc to an employment medical adviser |
| The Act— paragraph 9(1) and (4) of Schedule 5 | Payment of remuneration and allowances to chairman and members of a Health Authority |

⁽¹²⁾ See paragraph 52 of the Statement.

⁽¹³⁾ See paragraph 58 of the Statement.

⁽¹⁴⁾ Schedule 12A was inserted by the 1999 Act, section 4(1).

⁽¹⁵⁾ See paragraph 59 of the Statement.

⁽¹⁶⁾ S.I. 1998/632.

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| <i>Column (1)</i> <i>Enactments</i> | <i>Column (2)</i> <i>Subject matter</i> |
|---|---|
| Mental Health Act 1983– the whole Act, except the sections specified in Schedule 2 to these Regulations | Various matters relating to the treatment and detention of mentally disordered persons |
| Registered Homes Act 1984(17) | Registration and inspection of residential care homes and nursing homes |
| Water Industry Act 1991– section 87 | Requesting fluoridation of water supplies |
| Nurses, Midwives and Health Visitors Act 1997(18)– section 15(2) | Local supervision of midwifery practice |
| Health Act 1999– section 18(1) | Putting and keeping in place arrangements for monitoring and improving the quality of health care which the Health Authority provides to individuals |
| section 28(1), (2), (5) and (6) | Preparing and reviewing plans setting out a strategy for improving health and the provision of health care |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for functions of Health Authorities to be exercised by Primary Care Trusts and for certain restrictions on the exercise of those functions by Primary Care Trusts. The Regulations apply to Health Authorities and Primary Care Trusts in England.

Regulation 2 concerns interpretation. In particular, it defines the persons for whom a Primary Care Trust is responsible.

Regulation 3 and Schedules 1 to 3 specify the functions which are to be exercised by Primary Care Trusts and the extent to which those functions are to be exercised. Schedule 1 relates to the Secretary of State's functions which are exercisable by Health Authorities by virtue of the National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996; Schedule 2 relates to functions exercisable under certain Acts; and Schedule 3 relates to functions exercisable under certain regulations. Regulation 4 and Schedule 4 specify the functions which are not to be exercised by Primary Care Trusts. Regulation 5 provides for other functions to be exercisable by Primary Care Trusts or for functions to be exercised to a greater extent than that

(17) 1984 c. 23.

(18) 1997 c. 24.

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specified in regulation 3. Regulation 6 sets out certain restrictions on the exercise of functions by Primary Care Trusts.