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STATUTORY INSTRUMENTS

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**2002 No. 2375**

**The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002**

**Limitations and restrictions on the exercise of functions relevant to Primary Care Trusts only**

**8.—(1)** In exercising the functions of the Secretary of State under section 4 of the Act<sup>(1)</sup>, a Primary Care Trust—

- (a) may only enter into an NHS contract for the provision of high security psychiatric services—
  - (i) with an NHS trust approved by the Secretary of State under paragraph 10(2) and (3) of Schedule 2 to the 1990 Act as a provider of such services in relation to England, or
  - (ii) with the consent of the Secretary of State, with an NHS trust approved by the National Assembly for Wales under paragraph 10(2) and (3) of Schedule 2 to the 1990 Act as a provider of such services in relation to Wales;
- (b) may not arrange with any other person or body (including voluntary organisations) for that person or body to provide such services; and
- (c) must have the approval of the Secretary of State to the arrangements for providing or securing the provision of such services.

(2) The function under section 5(2)(d) of the Act (other services) is to be exercisable by a Primary Care Trust only to the extent that it does not consist of establishing or recognising research ethics committees.

(3) Except where the Secretary of State otherwise directs, the functions under section 96C(1) and (2) of the Act (public-private partnerships)<sup>(2)</sup> are only to be exercisable—

- (a) by a Primary Care Trust all or part of whose area is situated within the area of a local LIFT approved by the Secretary of State; and
- (b) for the purpose of forming and investing in a local LIFT company operating in the area of that trust.

(4) In exercising the functions specified in Schedule 1 to the extent that they consist of—

- (a) providing or securing the provision of any specialised services; and
- (b) preparing and implementing population screening programmes,

a Primary Care Trust must have the approval of the appropriate Strategic Health Authority to the arrangements for providing or securing the provision of such services.

(5) In exercising the functions specified in Schedule 1 to the extent that they consist of—

- (a) providing or securing the provision of facilities and services for—

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(1) Section 4 of the 1977 Act was substituted by the 1999 Act, section 41(1).

(2) Section 96C was inserted by the 2001 Act, section 4.

- (i) testing for, and preventing the spread of, AIDS, HIV and genito-urinary infections and diseases, and
  - (ii) treating and caring for persons with genito-urinary infections or diseases; and
  - (b) the functions under section 5(1)(b) of the Act (services relating to contraception);
- a Primary Care Trust must ensure that it complies with the conditions in paragraph (6).
- (6) The conditions referred to in paragraph (5) are that—
- (a) arrangements are in place for the application to those facilities or services of quality standards which are in accordance with any relevant guidance given by the Secretary of State;
  - (b) arrangements are in place for co-ordinating the planning of those facilities and services with the planning of the facilities and services for the treating and caring for persons with AIDS or infected with HIV; and
  - (c) the planning of the facilities and services for testing for, and preventing the spread of, AIDS and HIV takes account of the epidemiology of HIV infection in the area of the trust and targets those persons or classes of persons most vulnerable to infection.