

**2005 No. 1446**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The NHS Institute for Innovation and Improvement (Establishment  
and Constitution) Order 2005**

*Made* - - - - *3rd June 2005*

*Laid before Parliament* *3rd June 2005*

*Coming into force* - - *1st July 2005*

The Secretary of State for Health, in exercise of the powers conferred by sections 11(1), (2) and (4) and 126(4) of, and paragraph 9(7)(b) of Schedule 5 to, the National Health Service Act 1977(a), and of all other powers enabling her in that behalf, and after consultation with such bodies as she recognises as representing officers who in her opinion are likely to be transferred or affected by the transfers in pursuance of the Order, hereby makes the following Order:

**Citation, commencement, application and interpretation**

**1.**—(1) This Order may be cited as the NHS Institute for Innovation and Improvement (Establishment and Constitution) Order 2005 and shall come into force on 1<sup>st</sup> July 2005.

(2) This Order applies in relation to England.

(3) In this Order—

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

“the Institute” means the NHS Institute for Innovation and Improvement established by this Order;

“NHS body” means a Strategic Health Authority (b), a Primary Care Trust (c), a Special Health Authority (d), an NHS trust (e) and an NHS foundation trust (f);

“NHS staff” means any person employed by or engaged to provide services to an NHS body; and

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(a) 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) (“the 1995 Act”) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c.8) (“the 1999 Act”; section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“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 2002 Act 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”); sub-paragraph (7) was inserted in paragraph 9 of Schedule 5 by section 1 of, and paragraph 7(2) of Schedule 1 to, the 1990 Act and amended by section 2(1) of, and paragraph 60(b) of Schedule 1 to, the 1995 Act and section 1(3) of, and paragraphs 1, 34(1) and (3)(b) of Schedule 1 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 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 the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(b) See section 8 of the Act.

(c) See section 11 of the Act.

(d) See section 16A of the Act.

(e) See section 5 of the 1990 Act.

(f) See section 1 of the 2003 Act.

“Prescription Pricing Authority” means the Special Health Authority established by the Prescription Pricing Authority Constitution Order 1990<sup>(a)</sup>.

### **Establishment of the Institute**

2. There is hereby established a Special Health Authority which shall be known as the NHS Institute for Innovation and Improvement.

### **Functions of the Institute**

3. Subject to and in accordance with such directions as the Secretary of State may give to the Institute (b), the Institute shall, in order to promote innovation and best practice in the delivery of services under the Act, perform such functions in connection with —

- (a) the promotion and use of new products and technology;
- (b) the development and delivery of new services;
- (c) the leadership development of both NHS staff and the chairmen and members of NHS bodies;
- (d) the training and development of NHS staff; and
- (e) such other functions,

as the Secretary of State may direct.

### **Constitution of the Institute**

4. The Institute shall consist of—

- (a) a chairman;
- (b) not less than six and not more than seven members who are not officers of the Institute in addition to the chairman; and
- (c) not more than six members who are officers of the Institute including the persons who for the time being hold the office of chief executive and director of finance.

### **Remuneration of members**

5. The Institute is hereby specified for the purposes of paragraph 9(7)(b) of Schedule 5 to the Act (definition of “relevant authority” for the purposes of paying remuneration to members of certain Special Health Authorities).

### **Transfer of officers from the Prescription Pricing Authority**

6.—(1) This paragraph applies in relation to an officer of the Prescription Pricing Authority who was notified in writing on or before 2<sup>nd</sup> June 2005 that he was to be transferred to the Institute.

(2) Any officer to whom paragraph (1) applies shall on 1<sup>st</sup> July 2005 be transferred to the employment of the Institute.

(3) The contract of employment of an officer transferred under paragraph (2)—

- (a) is not terminated by the transfer, and
- (b) has effect from the time of the transfer as if originally made between the officer and the Institute.

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(a) S.I. 1990/1718.

(b) See, in particular, sections 16D, 17 and 18 of the National Health Service Act 1977 (c.49); section 16D was inserted by section 12(1) of the 1999 Act and amended by sections 1(3), 3(1) and (2) of, and paragraphs 1 and 6(a) of Schedule 1 to, the 2002 Act; section 17 was inserted by section 12(1) of the 1999 Act and amended by section 67(1) of, and paragraph 5(1) and (3) of Schedule 5 to, the Health and Social Care Act 2001 (c.15) and section 1(3) of, and paragraphs 1 and 7 of Schedule 1 to, the 2002 Act; section 18 was amended by sections 2(1), 5(1) and 3(8) of, and paragraph 9(b) and (c)(ii) of Schedule 1 and Schedule 3 to, the 1995 Act, section 12(3) and (4) of the 1999 Act and sections 1(3), 3(1), (5)(a) and (b) and 37(2) of, and paragraphs 1 and 9 of Schedule 1 and Part 1 of Schedule 9 to, the 2002 Act.

(4) Without prejudice to paragraph (3)—

- (a) all the rights, powers, duties and liabilities of the Prescription Pricing Authority, under or in connection with its contract of employment with an officer transferred under paragraph (2), shall by virtue of this paragraph be transferred to the Institute; and
- (b) anything done before the date of the transfer by or in relation to the Prescription Pricing Authority, in respect of the officer or his contract of employment, shall be deemed to have been done by or in relation to the Institute.

(5) Paragraphs (2) to (4) do not transfer an officer's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that officer has objected to the transfer to the Institute and has informed the Prescription Pricing Authority of that objection by 30<sup>th</sup> June 2005.

(6) Where an officer has objected as mentioned in paragraph (5), his contract of employment with the Prescription Pricing Authority shall be terminated immediately before the date on which the transfer would occur, but he shall not be treated, for any purpose, as having been dismissed from the Prescription Pricing Authority.

(7) This article is without prejudice to any right of an officer to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only that, under this article, the identity of his employer changes unless the officer shows that, in all the circumstances, the change is a significant change and is to his detriment.

### **Public meetings**

7. The Public Bodies (Admission to Meetings) Act 1960(a) shall apply to the Institute.

### **Consequential amendment Regulations**

8. The amendments in the Schedule are made in consequence of the establishment of the Institute.

Signed by authority of the Secretary of State for Health

3rd June 2005

*Norman Warner*  
Minister of State for NHS Delivery,  
Department of Health

## **SCHEDULE**

Article 8

### **AMENDMENTS CONSEQUENTIAL ON THE ESTABLISHMENT OF THE NHS INSTITUTE FOR INNOVATION AND IMPROVEMENT**

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

1. In regulation 11(5) of the National Health Service Trusts (Membership and Procedure) Regulations 1990(b) (disqualification for appointment of chairman and non-executive directors) after sub-paragraph (f), insert —

“(g) the NHS Institute for Innovation and Improvement.”.

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(a) 1960 c.67; see paragraph 1(g) of the Schedule to the Act, which was inserted by paragraph 91 of Schedule 1 to the 1995 Act.  
(b) S.I. 1990/2024; relevant amending statutory instruments are S.I. 1997/2990, S.I. 2000/2434 and S.I. 2001/2629.

*The Health Authorities (Membership and Procedure) Regulations 1996*

2. In Schedule 2 to the Health Authorities (Membership and Procedure) Regulations 1996(a) (Special Health Authorities of which the chairman and members are not disqualified under regulation 10(1)(g)) insert in the appropriate alphabetical place “NHS Institute for Innovation and Improvement;”.

*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(b) (Special Health Authorities of which the chairman and members are not disqualified under regulation 5(1)(e)) insert in the appropriate alphabetical place “NHS Institute for Innovation and Improvement;”.

**EXPLANATORY NOTE**

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

This Order provides for the establishment and constitution of a Special Health Authority, to be known as The NHS Institute for Innovation and Improvement (“the Institute”) to exercise functions, in England, in connection with the promotion of innovation and best practice in the NHS.

Article 2 of the Order establishes the Institute, the functions of which are described in article 3 and are to be specified more particularly in directions given by the Secretary of State. Provision is also made for the constitution of the Institute (article 4), for the remuneration of its members (article 5), for the transfer to it of certain staff from the Prescription Pricing Authority (article 6) and for the admission of the public to meetings (article 7). Article 8 and the Schedule make provision to ensure that a member of the Institute is not disqualified from membership of certain other NHS bodies.

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(a) S.I. 1996/707; relevant amending statutory instruments are S.I. 1999/946 and S.I. 2000/696.

(b) S.I. 2000/89; relevant amending statutory instrument is S.I. 2002/38.

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