

This Statutory Instrument has been made in consequence of a defect in SI 2008/2496 and is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

2008 No. 2677

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Directions by Strategic Health Authorities to Primary Care Trusts Regarding Arrangements for Involvement) (No.2) Regulations 2008

<i>Made</i>	- - - -	<i>8th October 2008</i>
<i>Laid before Parliament</i>		<i>10th October 2008</i>
<i>Coming into force</i>		
<i>for the purposes of regulation 7</i>		<i>13th October 2008</i>
<i>for all other purposes</i>		<i>3rd November 2008</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 7(1), 8(1), 242B, 272(7) and 273(4) of the National Health Service Act 2006(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Directions by Strategic Health Authorities to Primary Care Trusts Regarding Arrangements for Involvement) (No.2) Regulations 2008 and shall come into force—

- (a) for the purposes of regulation 7, on 13th October 2008; and
- (b) for all other purposes, on 3rd November 2008.

(2) In these Regulations—

“the Act” means the National Health Service Act 2006;

“relevant matter” has the meaning given in regulation 2(1)(a);

“relevant persons” has the meaning given in regulation 2(1)(b);

“relevant Strategic Health Authority”, in relation to a Primary Care Trust, means a Strategic Health Authority any part of whose area falls within the Primary Care Trust’s area.

Directions in cases where a Strategic Health Authority arranges involvement

2.—(1) This regulation applies if—

(a) 2006 c.41; section 242B was inserted by section 233 of the Local Government and Public Involvement in Health Act 2007 (c.28).

- (a) a Primary Care Trust has made or is to make arrangements under section 242(1B) of the Act which secure that users of health services are involved in a particular matter (the “relevant matter”); and
- (b) the users of health services who would otherwise be involved in the relevant matter under those arrangements (the “relevant persons”) are to be involved in that matter under arrangements made or to be made by a relevant Strategic Health Authority.

(2) Subject to paragraph (3), where this regulation applies, the Strategic Health Authority may direct the Primary Care Trust that persons who would otherwise be involved in the relevant matter under arrangements made or to be made by that Trust under section 242(1B) of the Act are not to be involved in that matter under those arrangements.

(3) A Strategic Health Authority may give a direction under paragraph (2) only if the arrangements made or to be made by that Authority—

- (a) are, in the opinion of that Authority, more appropriate for securing the efficient and effective involvement of the relevant persons in the relevant matter than any arrangements made or to be made under section 242(1B) of the Act by the Primary Care Trust; and
- (b) would, if made by the Primary Care Trust, satisfy the duty on that Trust under section 242(1B) of the Act in relation to the involvement of the relevant persons in the relevant matter.

(4) A direction given under paragraph (2) must—

- (a) be given in writing; and
- (b) specify the relevant matter to which the direction relates.

(5) A direction under paragraph (2) may be given where the involvement of the relevant persons in the relevant matter under arrangements made by the Primary Care Trust has already begun.

(6) Where a direction is given in the circumstances specified in paragraph (5), the direction may specify—

- (a) the aspects, if any, of involvement under those arrangements the Primary Care Trust is to complete;
- (b) the arrangements to be made for ending involvement under those arrangements;
- (c) that the relevant persons are to be notified about the effect of the direction.

Consequences of issuing a direction

3. If a Strategic Health Authority gives a direction to a Primary Care Trust in accordance with regulation 2(2), that Trust is not to be taken to have failed to comply with its duty under section 242(1B) of the Act in relation to the relevant matter by reason of compliance with the direction.

Acting jointly

4. If a Strategic Health Authority gives a direction to a Primary Care Trust in accordance with regulation 2(2), it may also direct that Trust to act jointly with that Authority in carrying out involvement of the relevant persons in the relevant matter.

Information

5.—(1) Where a Strategic Health Authority has given a direction to a Primary Care Trust in accordance with regulation 2(2)—

- (a) the Trust must provide the required information to the Authority; and
 - (b) the Authority must provide the required information to the Trust.
- (2) For the purpose of paragraph (1)(a) the required information is any information that—
- (a) is requested by the Authority from the Trust; and

- (b) the Authority reasonably requires—
 - (i) to make arrangements for the involvement of the relevant persons in the relevant matter; or
 - (ii) for the involvement of the relevant persons in the relevant matter under arrangements made or to be made by the Authority.
- (3) For the purpose of paragraph (1)(b) the required information is any information that—
 - (a) is requested by the Trust from the Authority;
 - (b) is relevant to the functions of the Trust; and
 - (c) is—
 - (i) obtained by the Authority as a result of the arrangements made or to be made by that Authority for the involvement of the relevant persons in the relevant matter; or
 - (ii) held by the Authority and relates to the arrangements made or to be made by that Authority for the involvement of the relevant persons in the relevant matter.

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

6.—(1) Regulation 6 of the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002^(a) (limitations and restrictions on the exercise of functions relevant to both Strategic Health Authorities and Primary Care Trusts) is amended as follows.

(2) In paragraph (3) for “The” substitute “Subject to paragraph (3A), the”.

(3) After paragraph (3) insert—

“(3A) A Strategic Health Authority may exercise the power under section 2 of the Act (Secretary of State’s general power as to services) to make arrangements, as respects health services for which a relevant Primary Care Trust is responsible, which secure that users of those services, whether directly or through representatives, are involved (whether by being consulted or provided with information, or in other ways) in matters relating to the provision of those services.

(3B) In paragraph (3A)—

- (a) “health services” means services provided under the Act; and
- (c) “relevant Primary Care Trust”, in relation to a Strategic Health Authority, means a Primary Care Trust any part of whose area falls within the area of that Strategic Health Authority.

(3C) For the purposes of paragraph (3A) a Primary Care Trust is responsible for health services—

- (a) if the Primary Care Trust provides or will provide those services to individuals, or
- (b) if another person provides, or will provide, those services to individuals—
 - (i) at the Primary Care Trust’s direction,
 - (ii) on its behalf, or
 - (iii) in accordance with an agreement or arrangements made by that Primary Care Trust with that other person.

(3D) For the purposes of paragraph (3A) a person is a “user” of health services if the person is someone to whom those services are being or may be provided.”

^(a) S.I. 2002/2375; regulation 6 was amended by S.I. 2004/865, 2006/562 and 2007/1818.

Revocation

7. The National Health Service (Directions by Strategic Health Authorities to Primary Care Trusts Regarding Arrangements for Involvement) Regulations 2008^(a) are revoked.

Signed by the authority of the Secretary of State for Health.

8th October 2008

Ben Bradshaw
Minister of State,
Department for Health

^(a) S.I.2008/2496.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for Strategic Health Authorities to give directions to Primary Care Trusts concerning the arrangements for the involvement of users of health services that Primary Care Trusts are required to make under section 242 (public involvement and consultation) of the National Health Service Act 2006 (c.41) (“the Act”).

Regulation 2 sets out when a Strategic Health Authority can direct a Primary Care Trust that users of health services who were to be involved in a matter (the “relevant matter”) under arrangements made by the Primary Care Trust are not to be involved in that matter under those arrangements but are to be involved under arrangements made or to be made by the Strategic Health Authority. Regulation 2 also makes provision about the content of such a direction. Regulation 4 provides that Strategic Health Authority may also direct the Primary Care Trust to act jointly with the Authority in carrying out the involvement of users of health services in relation to the relevant matter.

Regulation 3 provides that in complying with the direction given by a Strategic Health Authority under regulation 2(1) the Primary Care Trust is not to be regarded as having failed to comply with its duty under section 242 of the Act.

Where a Strategic Health Authority has given a direction to a Primary Care Trust in accordance with regulation 2(1), regulation 5 sets out the information that the Strategic Health Authority must give to the Primary Care Trust and the information that the Primary Care Trust must give to the Strategic Health Authority.

Regulation 6 amends the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002 (S.I. 2002/2375). The amendments provide that Strategic Health Authorities may exercise the power of the Secretary of State under section 2 of the Act (Secretary of State’s general power) to make arrangements to ensure that people are involved in matters relating to the provision of health services for which a Primary Care Trust in the area of the Strategic Health Authority is responsible.

Regulation 7 revokes the National Health Service (Directions by Strategic Health Authorities to Primary Care Trusts Regarding Arrangements for Involvement) Regulations 2008 (S.I. 2008/2496).

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

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