

NHSLA establishment legislation

The NHS Litigation Authority (NHSLA) was established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995, S.I. 1995/2800. The order was made under section 11(1), (2) and (4) of, and paragraph 9(7)(b) of schedule 5 to, the National Health Service Act 1977. Following the consolidation of the enabling authority, this order now has effect as if made under the National Health Service Act 2006, section 28 and the National Health Service (Wales) Act 2006, section 22, by virtue of the National Health Service (Consequential Provisions) Act 2006, section 4, schedule 2, part 1, paragraph 1. S.I. 1995/2800 has been amended by:

the National Health Service Litigation Authority (Establishment and Constitution) Amendment Order 2002, S.I. 2002/2621; and

the National Health Service Litigation Authority (Establishment and Constitution) Amendment (No. 2) Order 2005, S.I. 2005/2621.

The National Health Service Litigation Authority Regulations 1995, S.I. 1995/2801, make detailed provision about the operation of the NHSLA. The Regulations were made under sections 16 and 126(4) of, and paragraphs 12 and 16 of schedule 5 to, the National Health Service Act 1977. Following the consolidation of the enabling authority, these regulations now have effect as if made under the National Health Service Act 2006, section 29, schedule 6, paragraphs 5, 13 and the National Health Service (Wales) Act 2006, section 25, schedule 5, paragraphs 5, 13, again by virtue of the National Health Service (Consequential Provisions) Act 2006, section 4, schedule 2, part 1, paragraph 1. S.I. 1995/2801 has been amended by:

National Health Service (Functions of Health Authorities and Administration Arrangements) Regulations 1996, S.I. 1996/708;

National Health Service Litigation Authority (Amendment) Regulations 1996, S.I. 1996/968;

Health Authorities (Membership and Procedure) Amendment Regulations 1997, S.I. 1997/2991;

National Health Service (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations 1998, S.I. 1998/646;

Special Health Authorities (Amendment) Regulations 1998, S.I. 1998/1576;

Health Authorities (Membership and Procedure) Amendment Regulations 2000, S.I. 2000/696;

National Health Service Litigation Authority (Amendment) Regulations 2000, S.I. 2000/2433;

National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002, S.I. 2002/2469;

National Health Service (Local Pharmaceutical Services etc.) Regulations 2002, S.I. 2002/2861;

Health and Social Care (Community Health and Standards) Act 2003 (Supplementary and Consequential Provision) (NHS Foundation Trusts) Order 2004, S.I. 2004/696;

National Health Service (Local Pharmaceutical Services etc.) Regulations 2006, S.I. 2006/552; and

Enterprise Act 2002 (Disqualification from Office: General) Order 2006, S.I. 2006/1722.

The Special Health Authorities (SHA) Abolition Order 2005, S.I. 2005/502, dealt with the abolition of the Family Health Services Appeal Authority (FHSAA) and transferred its responsibilities to the NHSLA. This order was made under the powers conferred by sections 11(1), (2) and (4) and 126(3) and (4) of the National Health Service Act 1977. Following the consolidation of the enabling authority, this order now has effect as if made under the National Health Service Act 2006, section 28 and the National Health Service (Wales) Act 2006, section 22 by virtue of the National Health Service (Consequential Provisions) Act 2006, s 4, schedule 2, part 1, paragraph 1.

The National Health Service (Complaints) Regulations 2004, S.I. 2004/1786, make provision for complaints in the NHS for specific NHS bodies, which include SHAs to which section 2 of the Health Services Commissioners Act 1993 applies. These regulations were amended by the National Health Service (Complaints) Amendment Regulations 2006, S.I. 2006/2084

Section 2(5)(b) of the Health Service Commissioner Act 1993 provides for an Order in Council to be made to include other SHAs than those listed at section 2(1). The NHSLA was included through the following order:

The Health Service Commissioner for England SHAs Order 2005, S.I. 2005/251.

The Secretary of State is also able to direct the NHSLA by virtue of sections 16D, 17, 18(3) and 126(4) of the National Health Service Act 1977, section 7(3) and (4) of the Health and Medicines Act 1988. The enabling authority under the 1977 Act has subsequently been consolidated under section 8 of the NHS Act 2006.

Directions that regulate the NHSLA are:

The National Health Service Litigation Authority (Functions) Directions 1995;

The National Health Service (Clinical Negligence Scheme) Directions 1997;

The National Health Service (Existing Liabilities Scheme) Directions 1997;

Directions to the National Health Service Litigation Authority Arrangements for Reimbursement of Health Authorities For Payments Under Structured Settlements in Respect of Clinical Negligence Claims 1999;

The National Health Service Litigation Authority Directions 2005;

Directions as to the Functions of the National Health Service Litigation Authority (GDS Contracts Disputes) 2005;

Directions as to the Functions of the National Health Service Litigation Authority (PDS Agreements Disputes) 2005;

Directions as to the Functions of the National Health Service Litigation Authority (GDS Contract and PDS Agreements Transitional Disputes) 2005;

National Health Service Litigation Authority (Functions) (England) Directions 2005;

National Health Service Litigation Authority (Functions) (England and Wales) Directions 2005;

The National Health Service Litigation Authority and National Health Service Trusts (Supply Of Services and Facilities To The FHSAA) Directions 2005;

National Health Service Litigation Authority and Primary Care Trust Directions 2005;
and

The National Health Service Litigation Authority (Functions) (England) (Amendment) Directions 2007.

In future, the Secretary of State intends to issue Directions to the NHSLA with regard to the resolution of disputes in primary medical services over the general practitioner systems of choice primary care trust-practice agreement.