
D I R E C T I O N S

NATIONAL HEALTH SERVICE ACT 2006

ENGLAND

**Directions as to the Functions of the National Health Service
Litigation Authority (GOS Contract Disputes) 2010**

The Secretary of State for Health gives the following Directions in exercise of the powers conferred by sections 7(1), 8(1) and 273(1) of the National Health Service Act 2006(a).

Citation, commencement and application

1.—(1) These Directions may be cited as the Directions as to the Functions of the National Health Service Litigation Authority (GOS Contract Disputes) 2010 and come into force on 1st April 2010.

(2) These Directions apply in relation to England.

Interpretation

2. In these Directions—

“the Authority” means the National Health Service Litigation Authority established by article 2 of the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(b);

“contractor” means a party to the GOS contract other than a Primary Care Trust;

“First-tier Tribunal” means the First-tier Tribunal established under the Tribunals, Courts and Enforcement Act 2007(c);

“GOS contract” means a general ophthalmic services contract within the meaning of section 117 of the National Health Service Act 2006; and

“the Regulations” means the General Ophthalmic Services Contracts Regulations 2008(d).

Directions in respect of functions exercisable by the Authority

3.—(1) The Secretary of State directs the Authority to exercise the functions set out in—

(a) regulation 7 of the Regulations (pre-contract disputes); and

(b) paragraphs 30 (NHS dispute resolution procedure) and 31 (determination of dispute) of Schedule 1 to the Regulations, except in relation to matters specified in paragraph (2).

(2) The Authority shall not exercise the Secretary of State’s functions in accordance with paragraph (2) in respect of any dispute (or part of a dispute) between the parties to a GOS contract about a term of the GOS contract that gives effect to any of the following provisions in Schedule 1 to the Regulations—

(a) 2006 c.41.

(b) S.I. 1995/2800. Relevant amendments were made by S.I. 2002/2621 and 2005/1445.

(c) 2007 c.15.

(d) S.I. 2008/1185.

- (a) paragraph 42 (termination by the PCT: contractor's inability to perform services), but only in so far as the dispute is about whether a contractor is able to perform services by virtue of a suspension referred to in paragraph 42(2);
- (b) paragraph 43 (termination by the PCT for the provision of untrue etc information), but only in so far as the dispute is about whether information provided to the Primary Care Trust by the contractor before the GOS contract was entered into was, when given, untrue or inaccurate in a material respect; or
- (c) paragraph 44 (termination by the PCT on grounds of suitability etc), but only in so far as the dispute requires a determination in respect of—
 - (i) whether any of the persons specified in paragraph 44(1)(a) to (c) falls within paragraph 44(2), or
 - (ii) any dispute relating to a decision taken by a Primary Care Trust in relation to a term of the GOS contract that gives effect to paragraph 44(3) to (5).

Co-operation with the First-tier Tribunal

4. In exercising functions under these Directions in relation to a particular GOS contract the Authority shall co-operate with the First-tier Tribunal in respect of any function to be exercised by that body under the National Health Service (Functions of the First-tier Tribunal relating to Primary Medical, Dental and Ophthalmic Services) Regulations 2010(a), in so far as it is necessary to ensure the just, expeditious, economical and final determination of any dispute arising in relation to a GOS contract.

Revocation

5. The Directions as to the Functions of the National Health Service Litigation Authority (GOS Contracts Disputes) 2009(b) are revoked.

Signed by authority of Secretary of State



30th March 2010

A Member of the Senior Civil Service
Department of Health

(a) S.I. 2010/76.

(b) These Directions were signed on 27th February 2009.