

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service Litigation Authority (Amendment) Directions 2013

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

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the National Health Service Litigation Authority (Amendment) Directions 2013.

(2) These Directions come into force on 6th November 2013.

(3) These Directions are given to the National Health Service Authority established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995(b).

(4) In these Directions “the 2013 Directions” means the National Health Service Litigation Authority Directions 2013(c).

Amendment of direction 3 of 2013 Directions

2. For direction 3 (directions relating to the handling and processing of claims arising from liabilities transferred to the Secretary of State) of the 2013 Directions substitute—

“Directions relating to the handling and processing of claims arising from liabilities transferred to the Secretary of State

3.—(1) The Authority is directed to handle and process any claims, and make payments in respect of any such claims (including payments of damages, payments in settlement of a claim, payments of legal costs incurred by the Secretary of State and any legal costs incurred by a claimant which the Secretary of State has been ordered to pay), arising from any liability of a Primary Care Trust(d), a Strategic Health Authority(e) or the Health Protection Agency(f) which—

(a) is transferred to the Secretary of State by a property transfer scheme made under section 300 of the 2012 Act; and

(b) prior to 1st April 2013—

(i) would have fallen to be dealt with under a scheme established by the National Health Service (Clinical Negligence Scheme) Regulations 1996(g), the National Health Service (Existing Liabilities Scheme) Regulations 1996(h) or the National Health Service (Liabilities to Third Parties Scheme) Regulations 1999(i); or

(a) 2006 c. 41. By virtue of section 271(1) of the National Health Service Act 2006 (“the 2006 Act”) the functions of the Secretary of State under those sections as exercised in making these Directions are exercisable only in relation to England. Section 7 has been amended by section 21 of the Health and Social Care Act 2012 (c.7) (“the 2012 Act”). Sections 8, 272 and 273 have been amended but the amendments are not relevant to these Directions.

(b) Established by S.I. 1995/2800; the relevant amending instruments are S.I. 2005/1445 and 2013/295.

(c) These Directions were signed on 28th March 2013 and are published on <https://www.gov.uk/government/publications/nhs-litigation-authority-directions-2013>.

(d) Primary Care Trusts are abolished by section 34(1) of the 2012 Act.

(e) Strategic Health Authorities are abolished by section 33(1) of the 2012 Act.

(f) The Health Protection Agency is abolished by section 56(1) of the 2012 Act.

(g) S.I. 1996/251; the relevant amending instruments are S.I. 1997/527, 1999/1274, 2000/2341, 2002/1073, 2002/2469, 2004/696, 2005/604, 2006/3087; 2012/1641 and 2013/497.

(h) S.I. 1996/686; amended by S.I. 1997/526, 1999/1275, 2002/2469, 2004/696, 2005/604, 2012/1641, and 2013/235.

(i) S.I. 1999/873; amended by S.I. 2000/2385, 2002/2469, 2004/696, 2005/604, 2012/1641, and 2013/235.

- (ii) would have fallen to be dealt with under a scheme established by the National Health Service (Liabilities to Third Parties Scheme) Regulations 1999 except that any of the circumstances set out in paragraph (2) apply.
- (2) The circumstances are that—
- (a) the Primary Care Trust, Strategic Health Authority or the Health Protection Agency was not a member of the scheme;
 - (b) sub-paragraph (a) applies and the claim arises from a liability which could not be a qualifying liability for the purposes of—
 - (i) paragraph 1 of Schedule 2 to the Membership Rules^(a) (Employers’ Liability Scheme) because the bodily injury was sustained or caused before 1st April 1999;
 - (ii) paragraph 1 of Schedule 3 to the Membership Rules (Public and Products Liability Claim) because the event specified in paragraph 1.1, 1.2 or 1.3 occurred before 1st April 1999; or
 - (iii) paragraph 1 of Schedule 4 to the Membership Rules (Directors’ and Officers’ Liability Claim) because the claim was first made before 1st April 1999;
 - (c) the claim arises from a liability which is not a qualifying liability for the purposes of—
 - (i) paragraph 1 of Schedule 2 to the Membership Rules (Employers’ Liability Scheme) because the bodily injury was sustained or caused before the membership date;
 - (ii) paragraph 1 of Schedule 3 to the Membership Rules (Public and Products Liability Claim) because the event specified in paragraph 1.1, 1.2 or 1.3 occurred before the membership date; or
 - (iii) paragraph 1 of Schedule 4 to the Membership Rules (Directors’ and Officers’ Liability Claim) because the claim was first made before the membership date.
- (3) In this direction—
- “bodily injury”; “employer’s liability claim”; “member”; and “membership date” have the same meaning as in the Membership Rules;
- “Membership Rules” means the Liabilities to Third Parties Scheme Membership Rules.

Signed by authority of the Secretary of State for Health

5th November 2013

Ben Luscombe
Member of Senior Civil Service
Department of Health

(a) August 1999 version, published on www.nhs.uk, see <http://www.nhs.uk/Claims/Documents/RPST%20Rules.pdf>