
D I R E C T I O N S

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service Litigation Authority (Arrangements for the Existing Liabilities Scheme) (No. 2) Directions 2019

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

Citation, commencement and interpretation

1.—(1) These Directions may be cited as the National Health Service Litigation Authority (Arrangements for the Existing Liabilities Scheme) (No. 2) Directions 2019.

(2) These Directions come into force on 20th September 2019.

(3) In these Directions—

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

“contractual arrangements” means contractual arrangements entered into by the Secretary of State with the Medical and Dental Defence Union of Scotland—

(a) for the purposes of the existing liabilities scheme; and

(b) in respect of any relevant liability of an MDDUS member incurred before 1st April 2019;

“Authority” means the National Health Service Litigation Authority^(b);

“existing liabilities scheme” means the scheme to be established by regulations made by the Secretary of State under section 71(1)(c) of the 2006 Act and which is to include provision to meet any relevant liability to which the arrangements apply;

“Medical and Dental Defence Union of Scotland” means the Medical and Dental Defence Union of Scotland, registered in Scotland (company registration number 5093) at Mackintosh House, 120 Blythswood Street, Glasgow, G2 4EA;

“MDDUS member” means a member, or former member, of the Medical and Dental Defence Union of Scotland;

“relevant liability” means any liability in tort under the law of England and Wales arising as a consequence of a breach of a duty of care owed by an MDDUS member to a third party in connection with a relevant function where—

(a) an act, or an omission to act, on the part of the MDDUS member, or any person employed, engaged or otherwise permitted by the MDDUS member to carry out an activity in connection with a relevant function, has resulted, in personal injury or loss to the third party; and

(b) the act, or omission to act, was in connection with the diagnosis of an illness in respect of, or the provision of care or treatment to, the third party;

(a) 2006 c.41. Section 7(1) was substituted by section 21 of the Health and Social Care Act 2012 (c.7).

(b) The National Health Service Litigation Authority (which operates under the name of “NHS Resolution”) was established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995 (S.I. 1995/2800 as amended by S.I. 2005/1445, 2013/295, 2014/3090, 2015/137 and 2017/150).

(c) Section 71(1) of the National Health Service Act 2006 has been amended by the Health and Social Care Act 2008, section 142(1) and (2).

“relevant function” has the same meaning as in regulation 2(1) of the National Health Service (Clinical Negligence Scheme for General Practice) Regulations 2019(a).

Direction to the Authority to carry out responsibilities of Secretary of State

2. In exercise of the Secretary of State’s powers under section 2(b) of the 2006 Act, the Authority is directed to—

- (a) carry out the Secretary of State’s governance and other responsibilities under, and in accordance with, the contractual arrangements; and
- (b) exercise any rights of the Secretary of State under, and in accordance with, the contractual arrangements.

Signed by authority of the Secretary of State for Health and Social Care

Date: 20th September 2019

William Vineall, Director
(Acute Care and Quality Policy)
Member of the Senior Civil Service
Department of Health and Social Care

(a) S.I. 2019/334.
(b) Section 2 of the National Health Service Act 2006 was substituted by the Health and Social Care Act 2012, section 55(1), Schedule 4, Part 1, paragraph 1(1).