

LOCAL AUTHORITY SOCIAL SERVICES ACT 1970

The Local Government (Employment of Health Professionals) (England) Directions 2003

The Secretary of State for Health, in exercise of the powers conferred upon him by section 7A of the Local Authority Social Services Act 1970(a), and of all other powers enabling him in that behalf, hereby gives the following Directions:—

Citation, commencement, application and interpretation

1.—(1) These Directions may be cited as the Local Government (Employment of Health Professionals) (England) Directions 2003 and shall come into force on 1st August 2003.

(2) These Directions apply to England only.

(3) In these Directions—

“the 2001 Order” means the Health Professions Order 2001(b); and

“contractor” means any person who is not a local authority.

Employment of health professionals by local authorities

2. A local authority may, for the purposes of exercising of their social services functions, only employ officers in the capacity of arts therapists (which includes art therapists, art psychotherapists, drama therapists and music therapists) chiropodists (also known as podiatrists), clinical scientists, dietitians (also known as dieticians), medical laboratory technicians (also known as biomedical scientists), occupational therapists, orthoptists, orthotists, paramedics, physiotherapists (also known as physical therapists) prosthetists, radiographers (which includes diagnostic radiographers and therapeutic radiographers), and speech and language therapists (also known as speech therapists) if—

(a) they are registered in respect of that profession in the part of the register maintained by the Health Professions Council under article 5 of the 2001 Order (establishment and maintenance of register) which relates to that profession; or

(b) as regards officers who are not so registered—

(i) immediately before these Directions came into force they were so employed or engaged by a local authority (otherwise than in breach of the Directions revoked in direction 4 below or the National Assistance (Professions Supplementary to Medicine) Regulations 1964(c)), and

(ii) they have applied for registration, or by 1st November 2003 apply for registration, on the basis of article 9(4) or 13(2) of the 2001 Order (which are transitional provisions relating to admission to the register), and their applications, including any appeals against decisions to refuse to register them, have not finally been disposed of.

(a) 1970; c.42; section 7A was inserted by section 50 of the National Health Service and Community Care Act 1990 (c.19).

(b) S.I. 2002/254.

(c) S.I. 1964/939; as amended by S.I. 1968/271, 2002/880 and 2003/1590.

Employment of contractors

3. A local authority may, for the purposes of exercising their social services functions, only make arrangements with a contractor for the provision of social services which comprise or include the provision of services by persons acting in the capacity of the professions mentioned in direction 2 above if those arrangements include a term to the effect that the contractors will, for the purposes of providing those services, only employ or engage persons to act in the capacity of a profession mentioned in direction 2 above who are, or will themselves only act in the capacity of a profession mentioned in direction 2 above if they are—

- (a) registered in respect of that profession in the part of the register maintained by the Health Professions Council under article 5 of the 2001 Order (establishment and maintenance of register) which relates to that profession; or
- (b) not so registered, but—
 - (i) immediately before these Directions came into force they were employed or engaged in that capacity by, or were acting in that capacity for, a local authority (otherwise than in breach of the Directions revoked in direction 4 below or the National Assistance (Professions Supplementary to Medicine) Regulations 1964), and
 - (ii) they have applied for registration, or by 1st November 2003 apply for registration, on the basis of article 9(4) or 13(2) of the 2001 Order (which are transitional provisions relating to admission to the register), and their applications, including any appeals against decisions to refuse to register them, have not finally been disposed of.

Revocations

4. The following Directions are hereby revoked—

- (a) The Employment of Professions Under the Professions Supplementary to Medicine Act Directions 1991, signed in March 1991 (also known as the Employment of Professions under the Professions Supplementary to Medicine Act 1960 Directions); and
- (b) The Employment of Professions under the Professions Supplementary to Medicine Act (Amendment) Directions 1999, signed on 23rd February 2000 (also known as the Employment of professions Supplementary to Medicine Act 1960 (Amendment) Directions 2000.

Signed by authority of the Secretary of State for Health

Martin Sturges 31 July 2003

A member of the Senior Civil Service
Department of Health

NATIONAL HEALTH SERVICE ACT 1977

NATIONAL HEALTH SERVICE AND COMMUNITY CARE ACT 1990

DIRECTIONS TO NHS TRUSTS, PRIMARY CARE TRUSTS AND SPECIAL HEALTH AUTHORITIES

The National Health Service (Employment of Health Professionals) (England) Directions 2003

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 17 and 126(4) of, and paragraph 8 of Schedule 5A to, the National Health Service Act 1977(a), and by paragraph 16 of Schedule 2 to the National Health Service and Community Care Act 1990(b), and of all other powers enabling him in that behalf, hereby gives the following Directions:—

Citation, commencement, application and interpretation

1.—(1) These Directions may be cited as the National Health Service (Employment of Health Professionals) (England) Directions 2003 and shall come into force on 1st August 2003.

(2) These Directions apply to England only.

(3) In these Directions—

“the 2001 Order” means the Health Professions Order 2001(c);

“contractor” means any person who is not an NHS body; and

“NHS body” means a body listed in section 17(2) of the National Health Service Act 1977.

Employment of health professionals by NHS Trusts and Primary Care Trust

2. An NHS Trust or a Primary Care Trust may only employ staff or officers in the capacity of arts therapists (which includes art therapists, art psychotherapists, drama therapists and music therapists) chiropodists (also known as podiatrists), clinical scientists, dietitians (also known as dieticians), medical laboratory technicians (also known as biomedical scientists), occupational therapists, orthoptists, orthotists, paramedics, physiotherapists (also known as physical therapists), prosthetists, radiographers (which includes diagnostic radiographers and therapeutic radiographers), and speech and language therapists (also known as speech therapists) if—

(a) 1977 c.49; section 17 is as substituted by section 12 of the Health Act 1999 (c.8), and section 126(4) was amended by: the National Health Service and Community Care Act 1990 (c.19), section 65(2); the Health Act 1999, Schedule 4, paragraphs 4 and 37; and the Health and Social Care Act 2001 (c.15), Schedule 5, paragraph 5(1) and (13)(b). Schedule 5A was inserted by the Health Act 1999, Schedule 1, and paragraph 8 of that Schedule was substituted by the Health and Social Care Act 2001, section 6(2)(a). As regards Wales, these functions of the Secretary of State under the 1977 Act were transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the Health Act 1999 and as read with section 40(1) of the National Health Service Reform and Health Care Professions Act 2002 (c.17).

(b) 1990 c.19; paragraph 16 has, in its application to England, been amended by the Health and Social Care Act 2001, section 6(3). These functions of the Secretary of State, as regards Wales, were transferred to the National Assembly for Wales by virtue of article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672.

(c) S.I. 2002/254.

- (a) they are registered in respect of that profession in the part of the register maintained by the Health Professions Council under article 5 of the 2001 Order (establishment and maintenance of register) which relates to that profession; or
- (b) as regards staff or officers who are not so registered—
 - (i) immediately before these Directions came into force they were so employed or engaged by an NHS Trust or a Primary Care Trust (otherwise than in breach of the Directions revoked in direction 4(a) below or the National Health Service (Speech Therapists) Regulations 1974(a)), and
 - (ii) they have applied for registration, or by 1st November 2003 apply for registration, on the basis of article 9(4) or 13(2) of the 2001 Order (which are transitional provisions relating to admission to the register), and their applications, including any appeals against decisions to refuse to register them, have not finally been disposed of.

Employment of contractors

3. NHS bodies may only make arrangements with contractors for the provision of health services which comprise or include the provision of services by persons acting in the capacity of the professions mentioned in direction 2 above if those arrangements include a term to the effect that the contractors will, for the purposes of providing those services, only employ or engage persons to act in the capacity of a profession mentioned in direction 2 above who are, or will themselves only act in the capacity of a profession mentioned in direction 2 above, if they are—

- (a) registered in respect of that profession in the part of the register maintained by the Health Professions Council under article 5 of the 2001 Order (establishment and maintenance of register) which relates to that profession; or
- (b) not so registered, but—
 - (i) immediately before these Directions came into force they were employed or engaged in that capacity by, or were acting in that capacity for, an NHS body (otherwise than in breach of the Directions revoked in direction 4 below, the National Health Service (Professions Supplementary to Medicine) Regulations 1974(b) or the National Health Service (Speech Therapists) Regulations 1974), and
 - (ii) they have applied for registration, or by 1st November 2003 apply for registration, on the basis of article 9(4) or 13(2) of the 2001 Order (which are transitional provisions relating to admission to the register), and their applications, including any appeals against decisions to refuse to register them, have not finally been disposed of.

Revocations

4. The following Directions are hereby revoked—

- (a) The Directions to NHS Trusts of 24th February 2000, and the Directions to Primary Care Trusts of 24th February 2000, on the Employment of Professions: Professions Supplementary to Medicine Act 1960; and
- (b) The Directions to Health Authorities and Special Health Authorities of 24th February 2002 on the Qualifications of Persons Concerned in the Provision of NHS Services and Arrangements made by Health Authorities and Special Health Authorities.

Signed by authority of the Secretary of State for Health

Martin Sturges 31 July 2003

A member of the Senior Civil Service
Department of Health

(a) S.I. 1974/495; amended by S.I. 1985/47, 2002/2469 and 2003/1590.
(b) S.I. 1974/494; amended by S.I. 1978/1090, 2000/523 and 880, and 2003/1590.

