THE NATIONAL HEALTH SERVICE ACT 2006

THE STATEMENT OF FINANCIAL ENTITLEMENTS (AMENDMENT) (NO 4) DIRECTIONS 2008

The Secretary of State for Health has consulted in accordance with section 87(4) of the National Health Service Act 2006(**a**) with the bodies appearing to him to be representative of persons to whose remuneration these Directions relate. The Secretary of State for Health, in exercise of the powers conferred by section 87 of that Act, gives the Directions set out in this instrument.

Citation, commencement and application

1.—(1) These Directions may be cited as the Statement of Financial Entitlements (Amendment) (No 4) Directions 2008.

(2) These Directions are signed on 1st September 2008 and shall come into force on 2nd September 2008.

(3) These Directions apply in relation to England.

Amendments to the Statement of Financial Entitlements

2. The directions given by the Secretary of State in the Statement of Financial Entitlements under section 28T of the National Health Service Act 1977(**b**), signed on 30th March 2005(**c**), are amended as follows.

Amendments to the Table of Contents

3. In the Table of Contents Part 3 (directed enhanced services)—

(a) in Section 7A (towards practice based commissioning scheme for the financial year 2006/2007)—

(**a**) 2006 c.41.

(**b**) 1977 c.49; section 28T was inserted by section 175(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c.43). Section 28T of the National Health Service Act 1977 was repealed by the National Health Service (Consequential Provisions) Act 2006 (c.43), section 6 and Schedule 4, with effect from 1st March 2007. For corresponding provisions, which came into force on the same date, *see* section 87 of the National Health Service Act 2006 (c.41).

(**c**) These Directions were amended by the Statement of Financial Entitlements (Amendment) Directions 2005 which were signed on 8th June 2005 but which had effect as from 1st April 2005, by the Statement of Financial Entitlements (Amendment) (No.2) Directions 2005 which were signed on 12th July 2005, by the Statement of Financial Entitlements (Amendment) Directions 2006 which were signed on 31st January 2006, by the Statement of Financial Entitlements (Amendment) (No.2) Directions 2006 which were signed on 30th March 2006, by the Statement of Financial Entitlements (Amendment) (No 3) Directions 2006 which were signed on 29th June 2006, by the Statement of Financial Entitlements (Amendment) (No 4) Directions 2006 which were signed on 2nd August 2006 but which had effect as from 30 July 2006, by the Statement of Financial Entitlements (Amendment) (No 5) Directions 2006 which were signed on 25th of September 2006 and by the Statement of Financial Entitlements (Amendment) (No 6) Directions 2006 which were signed on 2nd November 2006 but which had effect as from 4th September 2006, by the Statement of Financial Entitlements (Amendment) Directions 2007 which were signed on 19th March 2007, by the Statement of Financial Entitlements (Amendment) (No 2) Directions 2007 which were signed on 2 August 2007, by the Statement of Financial Entitlements (Amendment) Directions 2008 which were signed on 25th March 2008, by the Statement of Financial Entitlements (Amendment) (No 2) Directions 2008 which were signed on 21st April 2008 and, prospectively, by the Statement of Financial Entitlements (Amendment) (No 3) Directions 2008 which were signed on 7th August 2008 and will come into force on 1st October 2008.

(i) for "**7A TOWARDS PRACTICE BASED COMMISSIONING SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7A THIS SECTION IS A BLANK SECTION**", and

(ii) omit the headings listed;

(b) in Section 7B (improved access scheme for the financial year 2006/2007)—

(i) for "**7B IMPROVED ACCESS SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7B THIS SECTION IS A BLANK SECTION**", and

(ii) omit the headings listed;

(c) in Section 7D (choice and booking scheme for the financial year 2006/2007)—

(i) for "**7D CHOICE AND BOOKING SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7D THIS SECTION IS A BLANK SECTION**", and

(ii) omit the headings listed;

(d) after section 7F (choice and booking scheme for the financial year 2007/2008), add the following—

"**7G EXTENDED HOURS ACCESS SCHEME FOR THE PERIOD UP TO 31ST MARCH 2010**

Extended Hours Access Scheme – Payments

Provisions relating to contractors whose practices merge

Provisions relating to contractors whose practices split

Provisions relating to non-standard splits and mergers".

Amendment of Section 7A

4. In Section 7A (towards practice based commissioning scheme for the financial year 2006/2007)—

(a) for "**7A TOWARDS PRACTICE BASED COMMISSIONING SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7A THIS SECTION IS A BLANK SECTION**", and

(b) omit the remainder of the Section.

Amendment of Section 7B

5. In Section 7B (improved access scheme for the financial year 2006/2007)—

(a) for "**7B IMPROVED ACCESS SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7B THIS SECTION IS A BLANK SECTION**", and

(b) omit the remainder of the Section.

Amendment of Section 7D

6. In Section 7D (choice and booking scheme for the financial year 2006/2007)—

(a) for "**7D CHOICE AND BOOKING SCHEME FOR THE FINANCIAL YEAR 2006/2007**" substitute "**7D THIS SECTION IS A BLANK SECTION**", and

(b) omit the remainder of the Section.

Insertion of Section 7G

7. After Section 7F (choice and booking scheme for the financial year 2007/2008), insert the following Section—

"**SECTION 7G. Extended Hours Access Scheme for the period up to 31st March 2010**

7G.1 Direction 3(1)(a) of the Primary Medical Services (Directed Enhanced Services) (England) Directions 2008 (in this section referred to as "the DES Directions") requires each PCT to establish (if it had not already done so), operate and, as appropriate, revise an Extended Hours Access Scheme for its area. This Section 7G applies to arrangements entered into, under an Extended Hours Access Scheme, in respect of any part of the period up to and including 31st March 2010.

7G.2 As part of its Extended Hours Access Scheme, a PCT must offer to each contractor in its area the opportunity to enter into arrangements in respect of the period up to and including 31st March 2010, thereby affording the contractor a reasonable opportunity to participate in the Scheme during the period up to and including 31st March 2010. However, before entering into any such arrangements, the PCT must satisfy itself of the matters set out in direction 3(2)(a) and (b) of the DES Directions.

7G.3 The arrangements that the PCT enters into, or has entered into, with a particular contractor must cover the matters set out in direction 4 of the DES Directions.

Extended Hours Access Scheme – Payments

7G.4 If, as part of a GMS contract, a contractor and a PCT have agreed arrangements for Extended Hours Access in respect of any part of the period up to and including 31st March 2010 and the contractor has started providing, and continues to provide, the services agreed under those arrangements, the PCT must pay the contractor under the GMS contract quarterly Extended Hours Access payments, in respect of the period during which the service is being provided, calculated in accordance with the following provisions.

7G. 5 At the start of the provision of the service agreed under the arrangements, the PCT must calculate the Extended Hours Access Payment for the financial year, or the remainder of the financial year, during which the service commences.

7G.6 The calculation required by paragraph 7G.5 is as follows:—

£2.95 multiplied by—

(a) the contractor's CRP at the start of the quarter during which the provision of the service agreed under the arrangements commences, or

(b) the contractor's initial CRP if the contract starts after the start of the quarter during which the service agreed under the arrangements commences,

multiplied (in either case) by X/365 where X is the number of days left in the financial year when the provision of the service agreed under the arrangements commences in respect of that financial year.

7G.7 Where a contractor starts to provide services under an agreement during the financial year 2008/09 and continues to provide such services during the financial year 2009/2010, the PCT must calculate the Extended Hours Access Payment applicable to the period commencing 1st April 2009 as follows:—

£2.95 multiplied by the contractor's CRP on 1 April 2009,

and the Extended Hours Access Payment thus calculated will be the Extended Hours Access Payment applicable for the financial year commencing 1st April 2009.

7G.8 The amount calculated as the Extended Hours Access Payment for any financial year or part of a financial year is payable in quarterly instalments spread over the financial year or remainder of the financial year, payable on the last day of the quarter.

7G.9 Payments are only payable in respect of periods during which the service agreed under the arrangements is being provided and payments will not in any event be payable in respect of any period after 31st March 2010.

7G.10 Where the service agreed under the arrangements ceases to be provided at any time before 31st March 2010 a calculation must be made in respect of the payment to be made on the last day of the quarter during which the service ceases to be provided as follows—

the sum that would be payable in respect of that quarter had the service not ceased

multiplied by

X/the number of days in that quarter, where X is the number of days during that quarter that the service agreed under the arrangements was being provided,

and the sum so calculated is the sum payable on the final day of the quarter during which the service agreed under the arrangements ceased to be provided and no further payments will be payable in respect of the arrangements.

7G.11 Extended Hours Access Scheme Payments, or any part thereof, are only payable if the contractor satisfies the following conditions—

(a) the contractor must make available to the PCT any information which the PCT does not have but needs, and the contractor either has or could be reasonably expected to obtain, in order to form its opinion on whether the contractor has fulfilled its obligations under the Extended Hours Access Scheme arrangements;

(b) the contractor must make any returns required of it (whether computerised or otherwise) to the Exeter Registration System, and do so promptly and fully; and

(c) all information supplied pursuant to or in accordance with this paragraph must be accurate.

7G.12 If the contractor breaches any of these conditions, the PCT may, in appropriate circumstances, withhold payment of any, or any part of, an Extended Hours Access Scheme Payment that is otherwise payable.

Provisions relating to contractors whose practices merge

7G.13 Paragraphs 7G.14 to 7G.16 apply where two or more GMS contractors merge ("a contractual merger") and as a result two or more patient lists are combined, resulting in either a new GMS contract or a varied GMS contract.

7G.14 The GMS contracts of the contractors that form a contractual merger shall be treated as having terminated and the entitlement of the contractors in the contractual merger to any Extended Hours Access Scheme payment will be assessed in accordance with the provisions of Section 7G.10 on the basis that the arrangements agreed under those contracts ceased to be provided at the time those contracts are treated as having terminated.

7G.15 Subject to the provisions of paragraph 7G.16, the entitlement of the contractor entering into the new or varied GMS contract to an Extended Hours Access Scheme payment will be assessed in accordance with the provisions of this Section, and on the basis that entitlement to any payment under any new arrangements that may be agreed with the PCT commences at the time the contractor starts to provide such new arrangements and provided those arrangements have first been agreed in writing.

7G.16 Where there is a contract merger and the contractor under a new or varied GMS contract:

(a) agrees arrangements with the PCT for extended hours access, and starts providing extended hours access arrangements in accordance with such agreed arrangements, within 28 calendar days of the date the new or varied GMS contract commenced; and,

(b) during the period between the commencement of the new or varied GMS contract and the date upon which such agreed arrangements commence, has been providing extended hours access arrangements which were, in the opinion of the PCT, broadly comparable to what

was necessary in order to provide the minimum hours of extended access required under the DES Directions,

the new arrangements are deemed to have commenced on the date the new or varied GMS contract commenced, and payment will be assessed accordingly.

Provisions relating to contractors whose practices split

7G.17 Paragraphs 7G.18 to 7G.20 apply where a GMS contractor splits ("a contractual split"), and as a result the contractor's patient list is divided between two or more GMS contractors, resulting in either new GMS contracts or varied GMS contracts or a combination of both.

7G.18 The GMS contract of the contractor that splits shall be treated as having terminated and the entitlement of the contractor that is so terminated to any Extended Hours Access Scheme payment will be assessed in accordance with the provisions of section 7G.10 on the basis that the arrangements agreed under that contract ceased to be provided at the time that contract is treated as having terminated.

7G.19 Subject to the provisions of paragraph 7G.20, the entitlement of a contractor entering into any new or varied GMS contract to an Extended Hours Access Scheme payment, will be assessed in accordance with the provisions of this Section, and on the basis that entitlement to any payment under any new arrangements that may be agreed with the PCT commences at the time the contractor starts to provide such new arrangements and provided those arrangements have first been agreed in writing.

7G.20 Where there is a contract split and a contractor under a new or varied GMS contract arising out of such contract split:

(a) agrees arrangements with the PCT for extended hours access, and starts providing extended hours access arrangements in accordance with such agreed arrangements, within 28 calendar days of the date of the date the new or varied GMS contract commenced; and,

(b) during the period between the commencement of the new or varied GMS contract and the date upon which such agreed arrangements commence, has been providing extended hours access arrangements which were, in the opinion of the PCT, broadly comparable to what was necessary in order to provide the minimum hours of extended access required under the DES Directions,

the new arrangements are deemed to have commenced on the date the new or varied GMS contract commenced, and payment will be assessed accordingly.

Provisions relating to non-standard splits and mergers

7G. 21 Where the GMS contract of a contractor who has agreed extended hours access arrangements with a PCT is subject to a split or a merger and—

(a) the application of the provisions set out in this Section in respect of splits or mergers would, in the reasonable opinion of the PCT, lead to an inequitable result; or

(b) the circumstances of the split or merger are such that the provisions set out in this Section cannot be applied,

the PCT may, in consultation with the contractor or contractors concerned, agree to such payments as in the PCT's opinion, are reasonable in all the circumstances.".

Amendment to Section 8

8. In paragraph 8.2 of Section 8 (which relates to Childhood Immunisation Scheme plans) for "direction 6(2)(a) to (g)" substitute "direction 5(2)(a) to (g)".

Amendment to Annex A

9.—(1) In Part 1 of Annex A (Glossary – Acronyms), omit "PBCS – Practice Based Commissioning Scheme Plan".

(2) In Part 2 of Annex A (Glossary – Definitions)—

(a) for the definition of "DES Directions", substitute the following—

""DES Directions" means

(a) in Section 7C (information management and technology scheme for the financial year 2006/2007), the Primary Medical Services (Directed Enhanced Services) (England) Directions 2006,

(b) in Section 7E (improved access scheme for the financial year 2007/2008) and Section 7F (Choice and Booking Scheme for the financial year 2007/2008), the Primary Medical Services (Directed Enhanced Services) (England) Directions 2007, and

(c) in Section 7G (extended hours access scheme for the period up to 31st March 2010) and Section 8 (childhood immunisations scheme), the Primary Medical Services (Directed Enhanced Services) (England) Directions 2008"; and

(b) omit ""PBCS plan" is to be construed in accordance with paragraph 7A.3".

Signed by authority of the Secretary of State for Health

Richard Armstrong
A member of the Senior Civil Service
Department of Health

1st September 2008