

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Health Service in England

Emergency powers

Section 49 (new sections 98A, 114A, 125A, 168A) - Primary care services: directions as to exercise of functions

New section 125A Exercise of functions

495. This section inserts new section 125A into the NHS Act to provide a power of direction in respect of those functions of either the Secretary of State or the NHS Commissioning Board that relate to the provision of primary ophthalmic services. These will be exercised by the Secretary of State in respect of the NHS Commissioning Board and by the NHS Commissioning Board in respect of a CCG, a Special Health Authority or such other body as may be prescribed. This would both permit the delegation of functions by directions and allow for the directions to set out how the functions (including delegated functions) should be exercised by the NHS Commissioning Board, the CCG, the Special Health Authority or any prescribed body.
496. Subsection (1) of new section 125A of the Act provides that the Secretary of State may direct the NHS Commissioning Board to exercise on his behalf any of his functions relating to the provision of primary ophthalmic services.
497. Subsection (2) of new section 125A clarifies that the functions that may be directed do not include the Secretary of State's regulation and order-making powers.
498. Subsection (3) of new section 125A of the Act provides that the Secretary of State may direct the NHS Commissioning Board as to how it exercises any function relating to the provision of primary ophthalmic services (including any functions delegated to it).
499. Subsection (4) of new section 125A of the Act provides that the NHS Commissioning Board may direct a CCG, a Special Health Authority or other prescribed body to exercise on its behalf any of the NHS Commissioning Board's functions relating to the provision of primary ophthalmic services.
500. Subsection (5) of new section 125A of the Act provides that the NHS Commissioning Board may direct a CCG, a Special Health Authority or other prescribed body about the exercise of any functions relating to the provision of primary ophthalmic services (including any function delegated to it).
501. Subsection (6) of new section 125A of the Act permits regulations to set out functions that the NHS Commissioning Board cannot direct a CCG, a Special Health Authority or such other body as may be prescribed to exercise on the Board's behalf.
502. Subsection (7) of new section 125A of the Act permits the NHS Commissioning Board to provide information to the CCG, a Special Health Authority or such other

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

body as may be prescribed where that information is required by the CCG, Special Health Authority or other prescribed body to exercise any function that the NHS Commissioning Board has directed it to exercise. The supply of information would be limited to that which the NHS Commissioning Board considered necessary to allow the function to be performed effectively.

503. Subsections (8), (9) and (10) of new section 125A of the Act require the body directed to report to the NHS Commissioning Board on matters that come to its attention as a result of undertaking the NHS Commissioning Board's functions and permit the NHS Commissioning Board to consider those matters when exercising its primary ophthalmic services functions, such as issues relating to a contractor's performance under its contract.