STATUTORY INSTRUMENTS

2017 No. 960

PENSIONS
INVESTIGATORY POWERS
TERMS AND CONDITIONS OF EMPLOYMENT
PROCEEDS OF CRIME, ENGLAND AND WALES
NATIONAL HEALTH SERVICE, ENGLAND

The NHS Counter Fraud Authority (Investigatory Powers and Other Miscellaneous Amendments) Order 2017

Made - - - -	*3rd October 2017*
Laid before Parliament	*4th October 2017*
Coming into force - -	*1st November 2017*

The Secretary of State makes the following Order in exercise of the powers conferred by section 43F of the Employment Rights Act 1996(**1**), by section 30(1) and (3) of the Regulation of Investigatory Powers Act 2000(**2**), by sections 453 and 459(2) of the Proceeds of Crime Act 2002(**3**), by sections 86(2)(a) and 200(2)(a) of the Pensions Act 2004(**4**) and by sections 91, 106, 123 and 272(7) and (8) of the National Health Service Act 2006(**5**).

Pursuant to sections 86(2) and 200(2) of the Pensions Act 2004, the Secretary of State has consulted, respectively, the Regulator and the Board, as those bodies are defined by that Act.

Citation, commencement and extent

1.—(1) This Order may be cited as the NHS Counter Fraud Authority (Investigatory Powers and Other Miscellaneous Amendments) Order 2017 and comes into force on 1st November 2017.

(2) Article 6 extends to England and Wales only.

(**1**) 1996 c. 18. Section 43F was inserted by section 1 of the Public Interest Disclosure Act 1998 (c. 23). Section 43F(1) was amended by section 18(1)(c) of the Enterprise and Regulatory Reform Act 2013 (c. 24).
(**2**) 2000 c. 23.
(**3**) 2002 c. 29. Section 453(2) was amended by section 81(1)(a) and (b) of the Serious Crime Act 2007 (c. 27).
(**4**) 2004 c. 35 to which there are no relevant amendments.
(**5**) 2006 c. 41. Sections 91, 106 and 123 were amended by section 55(1) of, and paragraphs 35, 47 and 60, respectively, of Schedule 4 to, the Health and Social Care Act 2012 (c. 7). By virtue of section 271 of the 2006 Act, the powers in the National Health Service Act 2006 exercised to make these provisions are exercisable only in relation to England.

Amendment to the Pensions Act 2004

2. In column 1 of the table in each of Schedules 3 and 8 to the Pensions Act 2004 (which relate to permitted disclosures of certain restricted information to facilitate the exercise of functions), for "The Counter Fraud and Security Management Service established under the Counter Fraud and Security Management Service (Establishment and Constitution) Order 2002 (S.I. 2002/3039)", substitute—

> "A special health authority established under section 28 of the National Health Service Act 2006(**6**) directed to carry out counter fraud functions of the Secretary of State within the meaning of section 195 of that Act"(**7**).

Amendment to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010

3. In the table in Part 2 of the Schedule to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010(**8**), at the first entry, in column 2, for the words "in the Counter Fraud and Security Management Services Division of the NHS Business Services Authority", substitute "in the exercise of the Secretary of State's counter fraud functions, within the meaning of section 195 of the National Health Service Act 2006".

Amendment to the National Health Service (Performers Lists) (England) Regulations 2013

4.—(1) The National Health Service (Performers Lists) (England) Regulations 2013(**9**) are amended in accordance with this article.

(2) In regulation 2 (interpretation), after the definition of "NHS Business Services Authority", insert the following definition—

> ""NHS Counter Fraud Authority" means the NHS Counter Fraud Authority established as a special health authority under section 28 of the 2006 Act;".

(3) In regulation 4(5)(j) and (7)(f) (application for inclusion in a performers list), after the words "the NHS Business Services Authority", insert "or the NHS Counter Fraud Authority".

(4) In the following provisions, for "NHS Business Services Authority", substitute "NHS Counter Fraud Authority"—

(a) regulation 4(5)(k) and (7)(g);

(b) regulation 5(1)(b);

(c) regulation 7(2)(d);

(d) regulation 8(1)(h);

(e) regulation 9(2)(l);

(f) regulation 15(3)(c);

(g) regulation 18(3)(g);

(h) regulation 21(1)(j);

(i) paragraph 4(3)(b) of Schedule 1.

(**6**) 2006 c. 41. Section 28 of the National Health Service Act 2006 ("the 2006 Act") was amended by section 55(1) of, and paragraph 13 of Part 2 of Schedule 4 to, the Health and Social Care Act 2012 ("the 2012 Act"). The powers of the Secretary of State to establish special health authorities under section 28 are exercisable in relation to England only, by virtue of section 271 of the National Health Service Act 2006 (c. 41).

(**7**) Section 195 of the 2006 Act was amended by section 55(1) of, and paragraph 103 of Part 9 of Schedule 4 to, the 2012 Act.

(**8**) SI 2010/521, to which there are no relevant amendments.

(**9**) SI 2013/335, to which there are no relevant amendments.