STATUTORY INSTRUMENTS

# 2002 No. 3039

# NATIONAL HEALTH SERVICE, ENGLAND

## The Counter Fraud and Security Management Service (Establishment and Constitution) Order 2002

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| *Made - - - -* | *10th December 2002* |
| *Laid before Parliament* | *10th December 2002* |
| *Coming into force* | *1st January 2003* |

The Secretary of State for Health, in exercise of the powers conferred upon him by section 11(1), (2) and (4) of, and paragraph 9(7)(b) of Schedule 5 to, the National Health Service Act 1977**(a)** and of all other powers enabling him in that behalf, hereby makes the following Order:

### Citation, commencement, application and interpretation

**1.**—(1) This Order may be cited as the Counter Fraud and Security Management Service (Establishment and Constitution) Order 2002 and shall come into force on 1st January 2003.

(2) This Order applies to England only.

(3) In this Order "the CFSMS" means the Counter Fraud and Security Management Service established by this Order.

### Establishment of the CFSMS

**2.** There is hereby established a Special Health Authority which shall be known as the Counter Fraud and Security Management Service.

### Functions of the CFSMS

**3.** Subject to and in accordance with such directions as the Secretary of State may give**(b)**, the CFSMS shall have responsibility for all policy and operational matters relating to the prevention, detection and investigation of fraud and corruption and the management of security in the National Health Service and shall perform—

(a) such functions in connection with countering fraud and corruption and the management of security, and

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**(a)** 1977 c.49; section 11 was amended by paragraph 31 of Schedule 1 to the Health Services Act 1980 (c.53), by Schedule 10 to the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), by paragraph 2 of Schedule 1 to the Health Authorities Act 1995 (c.17) ("the 1995 Act") and by paragraph 6 of Schedule 4 to the Health Act 1999 (c.8) ("the 1999 Act"); sub-paragraph (7) was inserted in paragraph 9 of Schedule 5 by paragraph 7(2) of Schedule 1 to the 1990 Act and was amended by paragraph 60(b) of Schedule 1 to the 1995 Act. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

**(b)** See, in particular, sections 16D, 17 and 18 of the National Health Service Act 1977 (c.49); section 16D was inserted by section 12(1) of the 1999 Act and amended by section 3(1) and (2) of, and paragraph 6 of Schedule 1 to, the National Health Service Reform and Health Care Professions Act (c.17) ("the 2002 Act"); Section 17 was inserted by section 12(10) of the 1999 Act and amended by paragraph 7 of Schedule 1 to the 2002 Act; Section 18 was amended by Schedule 10 to the 1990 Act, by section 3(8) of the 1995 Act, by paragraph 9 of Schedule 1 to the 1995 Act, by section 12(3) of the 1999 Act and by the 2002 Act, section 3(1) and (5), Schedule 1, paragraphs 1 and 9 and Schedule 9, Part I.

(b) such other functions,

as the Secretary of State may direct.

**Constitution of the Service**

**4.** The CFSMS shall consist of—

(a) a chairman;

(b) not less than five and not more than seven members who are not officers of the CFSMS in addition to the chairman;

(c) the persons who for the time being hold the office of Chief Executive and Deputy Chief Executive of the CFSMS; and

(d) not less than three and not more than five members who are officers of the CFSMS.

**Remuneration of members**

**5.** The CFSMS is hereby specified for the purposes of paragraph 9(7)(b) of Schedule 5 to the National Health Service Act 1977 (definition of "relevant authority" for the purposes of paying remuneration to members of certain Special Health Authorities).

Signed by authority of the Secretary of State for Health

*Hunt*
Parliamentary Under Secretary of State for Health,
Department of Health

10th December 2002

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the establishment and constitution of a Special Health Authority, to be known as the Counter Fraud and Security Management Service ("the CFSMS"), to exercise such of the Secretary of State's functions in connection with countering fraud and corruption and the management of security and such other functions as he may direct it to perform.

Article 2 of the Order establishes the CFSMS, the functions of which are described in article 3 and are to be specified more particularly in directions given by the Secretary of State. Provision is also made for the constitution of the CFSMS (article 4) and for the remuneration of members of the CFSMS (article 5).

S T A T U T O R Y  I N S T R U M E N T S

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