



# National Health Service (Primary Care) Act 1997

## 1997 CHAPTER 46

### PART II

#### PRIMARY CARE

##### *Personal medical or dental services*

#### **21 Provision of personal medical or dental services.**

(1) In the 1977 Act, after section 28B, insert—

*“ Provision of personal medical or dental services*

#### **28C Personal medical or dental services.**

(1) A [<sup>F1</sup>Strategic Health Authority or a]Health Authority may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 28E, under which—

- (a) personal medical services are provided (otherwise than by the Authority); or
- (b) personal dental services are provided (otherwise than by the Authority).

(2) An agreement made under this section—

- (a) may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services [<sup>F2</sup>, and may not combine arrangements for the provision of personal medical services or personal dental services with arrangements for the provision of local pharmaceutical services under LPS schemes (within the meaning of paragraph 1(3) of Schedule 8A

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*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

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- to this Act) or under pilot schemes made under section 28 of the Health and Social Care Act 2001]; but
- (b) may include arrangements for the provision of services—
- (i) which are not personal medical services or personal dental services; but
  - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
- (a) a patient for whom personal medical services are provided in accordance with an agreement made under this section is not to count as a person for whom arrangements must be made by the [<sup>F3</sup>Primary Care Trust or]Health Authority concerned under section 29;
  - (b) a patient for whom personal dental services are provided under an agreement made under this section is not to count as a person for whom arrangements must be made by the [<sup>F3</sup>Primary Care Trust or]Health Authority concerned under section 35.
- (4) This Act (and in particular section 17) has effect, in relation to personal medical services or personal dental services provided under an agreement made under this section, as if those services were provided as a result of the delegation by the Secretary of State (by directions given under section 13) of functions of his under this Part.
- (5) The functions of a Health Authority in relation to an agreement made under this section are primary functions of the Authority for the purposes of the <sup>M1</sup>National Health Service and Community Care Act 1990.
- (6) Regulations may provide—
- (a) for functions which are exercisable by a [<sup>F4</sup>Strategic Health Authority or a]Health Authority in relation to an agreement made under this section to be exercisable on behalf of the Authority by a Health Board; and
  - (b) for functions which are exercisable by a Health Board in relation to an agreement made under section 17C of the <sup>M2</sup>National Health Service (Scotland) Act 1978 to be exercisable on behalf of the Board by a [Strategic Health Authority or a]Health Authority.
- (7) For the purposes of this section—
- “personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part II; and
- “personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part II.

### **28D Persons with whom agreements may be made.**

- (1) A [<sup>F5</sup>Strategic Health Authority or a] Health Authority may make an agreement under section 28C only with one or more of the following—
- (a) an NHS trust;
  - (b) in the case of an agreement under which personal medical services are provided—

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- (i) a qualifying medical practitioner;
- (ii) an individual who is providing personal medical services in accordance with section 28C arrangements or section 17C arrangements;
- (c) in the case of an agreement under which personal dental services are provided—
  - (i) a qualifying dental practitioner;
  - (ii) an individual who is providing personal dental services in accordance with section 28C arrangements or section 17C arrangements;
- (d) an NHS employee, a section 28C employee or a section 17C employee;
- (e) a qualifying body.

(2) In this section—

“the 1978 Act” means the <sup>M3</sup>National Health Service (Scotland) Act 1978;

“NHS employee” means an individual who, in connection with the provision of services in the health service in England and Wales or Scotland, is employed by—

- (a) an NHS trust;
- (b) in the case of an agreement under which personal medical services are provided—
  - (i) a medical practitioner whose name is included in a medical list kept under this Act or in a corresponding list kept under the 1978 Act; or
  - (ii) a medical practitioner who is providing personal medical services in accordance with section 28C arrangements or section 17C arrangements;
- (c) in the case of an agreement under which personal dental services are provided—
  - (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 36(1)(a) of this Act or section 25(2)(a) of the 1978 Act; or
  - (ii) a dental practitioner who is providing personal dental services in accordance with section 28C arrangements or section 17C arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraphs (a) to (d) of subsection (1); and also
- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the <sup>M4</sup>Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under section 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

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“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under section 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

“section 17C arrangements” means arrangements for the provision of services made under section 17C of the 1978 Act;

“section 17C employee” means an individual who, in connection with the provision of services in accordance with section 17C arrangements, is employed by an individual providing those services;

“section 28C arrangements” means arrangements for the provision of services made under section 28C; and

“section 28C employee” means an individual who, in connection with the provision of services in accordance with section 28C arrangements, is employed by an individual providing those services.”

(2) In the 1978 Act, after section 17B, insert—

*“ Provision of personal medical or dental services*

**17C Personal medical or dental services.**

- (1) A Health Board may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 17E, under which—
  - (a) personal medical services are provided (otherwise than by the Board); or
  - (b) personal dental services are provided (otherwise than by the Board).
- (2) An agreement made under this section—
  - (a) may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services; but
  - (b) may include arrangements for the provision of services—
    - (i) which are not personal medical services or personal dental services; but
    - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
  - (a) a patient for whom personal medical services are provided in accordance with an agreement made under this section is not to count as a person for whom arrangements must be made by the Health Board concerned under section 19;
  - (b) a patient for whom personal dental services are provided under an agreement made under this section is not to count as a person for whom arrangements must be made by the Health Board concerned under section 25.
- (4) This Act (and in particular section 2) has effect, in relation to personal medical services or personal dental services provided under an agreement made under this section, as if those services were provided as a result of the delegation

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by the Secretary of State (by directions given under section 2) of functions of his under this Part.

- (5) Regulations may provide—
- (a) for functions which are exercisable by a Health Board in relation to an agreement made under this section to be exercisable on behalf of the Board by a Health Authority; and
  - (b) for functions which are exercisable by a Health Authority in relation to an agreement made under section 28C of the <sup>M5</sup>National Health Service Act 1977 to be exercisable on behalf of the Authority by a Health Board.
- (6) For the purposes of this section—
- “Health Authority” has the same meaning as in the National Health Service Act 1977;
  - “personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part II; and
  - “personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part II.

#### **17D Persons with whom agreements may be made.**

- (1) A Health Board may make an agreement under section 17C only with one or more of the following—
- (a) an NHS trust;
  - (b) in the case of an agreement under which personal medical services are provided—
    - (i) a qualifying medical practitioner;
    - (ii) an individual who is providing personal medical services in accordance with section 17C arrangements or section 28C arrangements;
  - (c) in the case of an agreement under which personal dental services are provided—
    - (i) a qualifying dental practitioner;
    - (ii) an individual who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;
  - (d) an NHS employee, a section 17C employee or a section 28C employee;
  - (e) a qualifying body.
- (2) In this section—
- “the 1977 Act” means the <sup>M6</sup>National Health Service Act 1977;
  - “NHS employee” means an individual who, in connection with the provision of services in the health service in Scotland or England and Wales, is employed by—
    - (a) an NHS trust;
    - (b) in the case of an agreement under which personal medical services are provided—

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- (i) a medical practitioner whose name is included in a medical list kept under this Act or in a corresponding list kept under the 1977 Act; or
- (ii) a medical practitioner who is providing personal medical services in accordance with section 17C arrangements or section 28C arrangements;
- (c) in the case of an agreement under which personal dental services are provided—
  - (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 25(2)(a) of this Act or section 36(1)(a) of the 1977 Act; or
  - (ii) a dental practitioner who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraphs (a) to (d) of subsection (1); and also
- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the <sup>M7</sup>Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under section 17E(2)(b) of this Act or section 28E(2)(b) of the 1977 Act;

“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under section 17E(2)(b) of this Act or section 28E(2)(b) of the 1977 Act;

“section 17C employee” means an individual who, in connection with the provision of services in accordance with section 17C arrangements, is employed by an individual providing those services;

“section 28C arrangements” means arrangements for the provision of services made under section 28C of the 1977 Act; and

“section 28C employee” means an individual who, in connection with the provision of services in accordance with section 28C arrangements, is employed by an individual providing those services.”

- (3) The Secretary of State may not make an order under section 41(3) bringing this section into force unless he is satisfied, having regard in particular to reviews of pilot schemes which have been conducted under section 7, that it would be in the interests of any part of the health service to bring this section into force.

#### Textual Amendments

- F1** S. 21: words in s. 28C(1) to be inserted into the 1977 Act inserted (1.10.2002 for E. W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 7(2)(a)**; S.I. 2002/2478, **art. 3(1)(c)**
- F2** S. 21: words in s. 28C(2)(a) to be inserted into the 1977 Act inserted (1.7.2002 for W.) by 2001 c. 15, ss. 67, **Sch. 5 Pt. 1 para. 11(4)** (with ss. 64(9), 65(4)); S.I. 2002/1475 art. 2(1), Sch. Pt. 1

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*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

- F3** S. 21: words in s. 28C(3) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 7(2)(b)**; S.I. 2002/2478, **art. 3(1)(c)**
- F4** S. 21: words in s. 28C(6) to be inserted into the 1977 Act inserted (1.10.2002 for E. W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 7(2)(c)**; S.I. 2002/2478, **art. 3(1)(c)**
- F5** S. 21: words in s. 28D(1) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 7(3)**; S.I. 2002/2478 art. 3(1)(c)

#### Commencement Information

- I1** S. 21 partly in force; s. 21 not in force at Royal Assent see s. 41; S. 21(2)(3) in force for certain purposes at 5.3.2001 (S.) by **S.I. 2001/58, art. 2**; S. 21 in force (W.) at 1.7.2002 by **S.I. 2002/1475, art. 2(1), Sch. Pt. 1**
- I2** S. 21(1)(3) in force at 1.3.2004 for specified purposes for E. by **S.I. 2004/287, art. 2(1)**
- I3** S. 21(1)(3) in force at 1.4.2004 for specified purposes for E. by **S.I. 2004/287, art. 2(2)(a)**

#### Marginal Citations

- M1** 1990 c. 19.  
**M2** 1978 c. 29.  
**M3** 1978 c. 29.  
**M4** 1984 c. 24.  
**M5** 1977 c. 49.  
**M6** 1977 c. 49.  
**M7** 1984 c. 24.

## 22 Supplementary regulations.

(1) In the 1977 Act, after section 28D, insert—

### “28E Personal medical or dental services: regulations.

- (1) The Secretary of State may make regulations with respect to the provision of services in accordance with section 28C arrangements.
- (2) The regulations must—
- include provision for participants other than [<sup>F6</sup>Strategic Health Authorities and] Health Authorities to withdraw from section 28C arrangements if they wish to do so;
  - impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and dental practitioners performing personal dental services, in accordance with section 28C arrangements.

In paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

- (3) The regulations may, in particular—
- provide that section 28C arrangements may be made only in prescribed circumstances;
  - provide that section 28C arrangements may be made only in prescribed areas;

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- (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with section 28C arrangements;
- (d) require details of section 28C arrangements to be published;
- (e) make provision with respect to the variation and termination of section 28C arrangements;
- (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with section 28C arrangements from providing general medical services;
- (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
- (h) provide for parties to section 28C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 4 of the <sup>M8</sup>National Health Service and Community Care Act 1990;
- (i) provide for directions, as to payments, made under section 4(7) of the Act of 1990 (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;
- (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 28C(1) under which personal dental services are provided;
- (k) authorise [<sup>F7</sup>Strategic Health Authorities and] Health Authorities to make payments of financial assistance for prescribed categories of preparatory work undertaken—
  - (i) in connection with preparing proposals for section 28C arrangements; or
  - (ii) in preparation for the provision of services under proposed section 28C arrangements.

- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with section 28C arrangements, and
  - (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Secretary of State that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.

For the purposes of this subsection “fund-holding status” has such meaning as may be prescribed.

- (5) The Secretary of State must—
- (a) consider whether section 28C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in England or in Wales;
  - (b) if he thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and



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- (c) if he thinks that it is necessary, include such provisions in the regulations.
  - (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 32.
  - (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
    - (a) requiring (except in prescribed circumstances) [<sup>F8</sup>Primary Care Trusts and] Health Authorities to remove from their medical lists persons who are performing personal medical services in accordance with section 28C arrangements or corresponding services under section 17C of the <sup>M9</sup>National Health Service (Scotland) Act 1978;
    - (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
    - (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
    - (d) as to conditions to be attached to entries in medical lists;
    - (e) conferring powers of disqualification on the [<sup>F9</sup>Family Health Services Appeal Authority constituted under section 49S].
  - (8) The power to make provision under this section of the kind mentioned in subsection (3)(j) includes power—
    - (a) to authorise or require the Dental Practice Board to perform on behalf of a [<sup>F10</sup>Strategic Health Authority or] Health Authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the [<sup>F10</sup>Strategic Health Authority or] Health Authority in accordance with a power conferred by the regulations;
    - (b) to provide that functions conferred by the regulations are only to be exercised by the Board in accordance with directions of the Secretary of State;
    - (c) to require information for the purpose of performing any functions conferred or imposed on the Board under this section.”
- (2) In the 1978 Act, after section 17D, insert—

**“17E Personal medical or dental services: regulations.**

- (1) The Secretary of State may make regulations with respect to the provision of services in accordance with section 17C arrangements.
- (2) The regulations must—
  - (a) include provision for participants other than Health Boards to withdraw from section 17C arrangements if they wish to do so;
  - (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and dental practitioners performing personal dental services, in accordance with section 17C arrangements.

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In paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

- (3) The regulations may, in particular—
- (a) provide that section 17C arrangements may be made only in prescribed circumstances;
  - (b) provide that section 17C arrangements may be made only in prescribed areas;
  - (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with section 17C arrangements;
  - (d) require details of section 17C arrangements to be published;
  - (e) make provision with respect to the variation and termination of section 17C arrangements;
  - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with section 17C arrangements from providing general medical services;
  - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
  - (h) provide for parties to section 17C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 17A;
  - (i) provide for directions, as to payments, made under section 17A(8) (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in like manner as extract registered decrees arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
  - (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 17C(1) under which personal dental services are provided;
  - (k) authorise [Strategic Health Authorities and] Health Boards to make payments of financial assistance for prescribed categories of preparatory work undertaken—
    - (i) in connection with preparing proposals for section 17C arrangements; or
    - (ii) in preparation for the provision of services under proposed section 17C arrangements.
- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with section 17C arrangements, and
  - (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Secretary of State that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.
- For the purposes of this subsection “fund-holding status” has such meaning as may be prescribed.

- (5) The Secretary of State must—

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- (a) consider whether section 17C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in Scotland;
  - (b) if he thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
  - (c) if he thinks that it is necessary, include such provisions in the regulations.
- (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 22.
- (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) Health Boards to remove from their medical lists persons who are performing personal medical services in accordance with section 17C arrangements or corresponding services under section 28C of the <sup>M10</sup>National Health Service Act 1977;
  - (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
  - (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
  - (d) as to conditions to be attached to entries in medical lists;
  - (e) conferring powers of disqualification on the Tribunal constituted under section 29.
- (8) The power to make provision under this section of the kind mentioned in subsection (3)(j) includes power—
- (a) to authorise or require the Dental Practice Board to perform on behalf of a Health Board functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Dental Practice Board by the Health Board in accordance with a power conferred by the regulations;
  - (b) to provide that functions conferred by the regulations are only to be exercised by the Dental Practice Board in accordance with directions of the Secretary of State;
  - (c) to require information for the purpose of performing any functions conferred or imposed on the Dental Practice Board under this section.
- (9) In this Act “section 17C arrangements” means arrangements for the provision of services made under section 17C.”

#### Textual Amendments

- F6** S. 22: words in s. 28E(2)(a) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(a)**; S.I. 2002/2478, **art. 3(1)(c)**

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- F7** S. 22: words in s. 28E(3)(k) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(b)**; S.I. 2002/2478, **art. 3(1)(c)**
- F8** S. 22: words in s. 28E(7)(a) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(c)**; S.I. 2002/2478, **art. 3(1)(c)**
- F9** S. 22: words in s. 28E(7)(e) to be inserted into the 1977 Act substituted (1.10.2001 (E.) for specified purposes and 1.12.2001 (E.) otherwise subject to art. 4(2) of the commencing S.I.) by 2001 c. 15, **s. 27(5)(a)** (with ss. 64(9), 65(4)); S.I. 2001/3294, **art. 4, Sch.**
- F10** S. 22: words in s. 28E(8)(a) inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(2), **Sch. 3 Pt. 1 para. 8(d)**; S.I. 2002/2478, **art. 3(1)(c)**

#### Commencement Information

- I4** S. 22 partly in force; s. 22 not in force at Royal Assent see s. 41; s. 22(2) in force for certain purposes at 5.3.2001 (S.) by S.I. 2001/58, **art. 2**
- I5** S. 22(1) in force at 1.3.2004 for E. by S.I. 2004/287, **art. 2(1)**

#### Marginal Citations

- M8** 1990 c. 19.
- M9** 1978 c. 29.
- M10** 1977 c. 49.

## 23 Right to choose medical practitioner.

- <sup>F11</sup>(1) .....
- <sup>F12</sup>(2) .....

#### Textual Amendments

- F11** S. 23(1) repealed (E.W) (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4** Note; S.I. 2004/288, **art. 6(2)(p)** (with **art. 8**) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, **art. 5(2)(p)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F12** S. 23(2) repealed (S.) (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), s. 9(1), **sch. para. 2(6)**; S.S.I. 2004/58, **art. 2(3)**

## 24 Right to choose dental practitioner.

- (1) In the 1977 Act, after section 28F, insert—

### “28G Right to choose dental practitioner.

- (1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.
- (2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.
- (3) The regulations may, in particular, provide that the right to choose a dental practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.

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*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

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- (4) In this section “primary dental services” means dental services which are—
  - (a) provided, in accordance with section 28C arrangements, as personal dental services; or
  - (b) provided under Part II as general dental services.”
- (2) In the 1978 Act, after section 17F, insert—

**“17G Right to choose dental practitioner.**

- (1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.
- (2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.
- (3) The regulations may, in particular, provide that the right to choose a dental practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.
- (4) In this section “primary dental services” means dental services which are—
  - (a) provided, in accordance with section 17C arrangements, as personal dental services; or
  - (b) provided under Part II as general dental services.”

**25 Liabilities and obligations in relation to deputies.**

<sup>F13</sup>(1) .....

- (2) In the 1978 Act, after section 24, insert—

**“24A Liabilities and obligations in relation to deputies.**

- (1) Regulations may make provision with respect to the liabilities and obligations of—
  - (a) a Part II practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a Part I practitioner deputises, or is engaged to deputise, for him; or
  - (b) a Part II practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a Part I practitioner, in connection with that practitioner’s obligation to perform personal medical services in accordance with section 17C arrangements.
- (2) The regulations may, in particular—
  - (a) modify any liabilities or obligations which would otherwise be applicable by virtue of this Part;
  - (b) apply (with or without modifications) any provision made by or under this Part (including any provision so made by virtue of section 17 of the <sup>M11</sup>Health and Medicines Act 1988).
- (3) In subsection (1)—

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*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

“Part I practitioner” means a medical practitioner who performs personal medical services in accordance with section 17C arrangements; and

“Part II practitioner” means a medical practitioner who provides general medical services.”

#### Textual Amendments

**F13** S. 25(1) repealed (E.W) (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4** Note; S.I. 2004/288, art. 6(2)(p) (with art. 8) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

#### Commencement Information

**I6** S. 25 partly in force; s. 25 not in force at Royal Assent see s. 41; s. 25(2) in force for certain puposes at 5.3.2001 (S.) by [S.S.I. 2001/58](#), **art. 2**

#### Marginal Citations

**M11** 1988 c. 49.

PROSPECTIVE

## 26 Charges for dental treatment.

<sup>F14</sup>(1) .....

(2) In the 1978 Act, after section 70, insert—

### “70A Charges for dental treatment under section 17C.

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for dental treatment provided in accordance with section 17C arrangements.
- (2) “Dental treatment” means personal dental services other than those to which section 70(1A) applies.
- (3) The regulations must secure that the amount charged for a particular treatment (or course of treatment) is the same as the amount that would be charged for that treatment (or course of treatment) if it were provided under Part II.
- (4) The regulations may—
  - (a) provide for the amount or the maximum amount of any charge authorised by the regulations to be varied in prescribed circumstances; or
  - (b) give power to direct that the charge is not to be payable.
- (5) If, under a contract or arrangement, a patient receives—
  - (a) services for which a charge is payable under section 70, and
  - (b) treatment for which a charge is payable under the regulations,

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*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

the total charge for those services and that treatment is not to exceed such sum as may be prescribed.

- (6) No charge is to be made under the regulations in respect of treatment provided for any person who, at the time of the making of the contract or arrangement under which the treatment is provided—
- (a) was under 18;
  - (b) was under 19 and receiving qualifying full-time education;
  - (c) was pregnant; or
  - (d) had given birth within the previous twelve months.
- (7) In subsection (6)(b) “qualifying full-time education” has the same meaning as in Schedule 11.
- (8) The regulations may provide, with respect to any exemption under subsection (6), that it is to be a condition of the exemption that—
- (a) a declaration of the prescribed kind is made in the prescribed form or manner; or
  - (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.”

#### Textual Amendments

- F14** S. 26(1) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))

### *Pharmaceutical services*

## **27 Provision of additional pharmaceutical services.**

- (1) In the 1977 Act, after section 41, insert—

### **“41A Arrangements for providing additional pharmaceutical services.**

- (1) The Secretary of State may—
- (a) give directions to a Health Authority requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Authority authorise them to arrange for such provision if they wish to do so.
- (2) Directions under this section may make different provision in relation to different services specified in the directions.
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he thinks appropriate.
- (4) In this section—
- “additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within section 41) as may be specified in the directions; and

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*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

“Drug Tariff” means the Drug Tariff published under regulation 18 of the <sup>M12</sup>National Health Service (Pharmaceutical Services) Regulations 1992 or under any corresponding provision replacing, or otherwise derived from, that regulation.”

(2) In the 1978 Act, after section 27, insert—

**“27A Arrangements for providing additional pharmaceutical services.**

- (1) The Secretary of State may—
  - (a) give directions to a Health Board requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Board authorise them to arrange for such provision if they wish to do so.
- (2) Directions under this section may make different provision in relation to different services specified in the directions.
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he thinks appropriate.
- (4) In this section—
 

“additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within section 27) as may be specified in the directions; and

“Drug Tariff” means the Drug Tariff published under regulation 9 of the <sup>M13</sup>National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 or under any corresponding provision replacing, or otherwise derived from, that regulation.”

**Marginal Citations**

**M12** [S.I. 1992/662.](#)

**M13** [S.I. 1995/414.](#)

**28 Terms and conditions etc.**

(1) In the 1977 Act, after section 41A, insert—

**“41B Terms and conditions etc.**

- (1) Directions under section 41A may require the Health Authority to whom they apply, when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.



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*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

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- (3) Different arrangements may be made with respect to—
    - (a) the provision of the same service by the same person but in different circumstances; or
    - (b) the provision of the same service by different persons.
  - (4) A Health Authority must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
  - (5) After making any arrangements, a Health Authority must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
  - (6) In this section, “pharmaceutical list” means, subject to any provision of the directions in question, a list—
    - (a) published by the Health Authority concerned, or by any other Health Authority, in accordance with regulations made under section 42(2)(a) of this Act; or
    - (b) published by any body in accordance with regulations made under section 27(2)(a) of the <sup>M14</sup>National Health Service (Scotland) Act 1978 or Article 63(2A)(a) of the <sup>M15</sup>Health and Personal Social Services (Northern Ireland) Order 1972.”
- (2) In the 1978 Act, after section 27A, insert—

**“27B Terms and conditions etc.**

- (1) Directions under section 27A may require the Health Board to whom they apply, when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.
- (3) Different arrangements may be made with respect to—
  - (a) the provision of the same service by the same person but in different circumstances; or
  - (b) the provision of the same service by different persons.
- (4) A Health Board must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Health Board must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) In this section, “pharmaceutical list” means, subject to any provision of the directions in question, a list—

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*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

- (a) published by the Health Board concerned, or by any other Health Board, in accordance with regulations made under section 27(2) of this Act; or
- (b) published by any body in accordance with regulations made under section 42(2) of the <sup>M16</sup>National Health Service Act 1977 or Article 63(2A)(a) of the <sup>M17</sup>Health and Personal Social Services (Northern Ireland) Order 1972.”

#### Marginal Citations

**M14** 1978 c. 29.

**M15** S.I. 1972/1265 (N.I.14).

**M16** 1977 c. 49.

**M17** S.I. 1972/1265 (N.I.14).

### 29 Authorised provision of pharmaceutical services by medical practitioners.

- (1) In section 43 of the 1977 Act, after subsection (2), insert—

“(2A) Regulations shall provide for the preparation and publication by a Health Authority of one or more lists of medical practitioners who undertake to provide drugs, medicines or listed appliances in the Authority’s area.

(2B) In subsection (2A) “listed” has the same meaning as in section 41.

(2C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.”

- (2) In section 28 of the 1978 Act, after subsection (2), insert—

“(2A) Regulations shall provide for the preparation and publication by a Health Board of one or more lists of medical practitioners who undertake to supply drugs and appliances in the Board’s area.

(2B) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.”

#### *Ophthalmic services*

### 30 Duty of registered opticians to refer certain persons to registered medical practitioners.

- (1) Section 31 of the <sup>M18</sup>Opticians Act 1989 (matters with respect to which the General Optical Council may make rules) is amended as follows.

- (2) In subsection (5) (power to make rules requiring registered optician to refer persons to registered medical practitioners except in certain circumstances), for the words from “except” to “take the prescribed steps” substitute “except—

- (a) in an emergency,
- (b) where that person is consulting him for the purpose of being given treatment in accordance with rules under subsection (1)(d) above, or
- (c) in such other cases as may be prescribed,

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

take the prescribed steps”.

(3) After subsection (5), insert—

“(5A) Rules made by virtue of subsection (5)(c) may impose conditions which must be satisfied if the exception for which those rules provide is to apply.”

#### Marginal Citations

M18 1989 c. 44.

### *NHS contracts*

## **31 Provision of certain services under NHS contracts.**

(1) In the <sup>M19</sup>National Health Service and Community Care Act 1990, after section 4 (NHS contracts), insert—

### **“4A Provision of certain services under NHS contracts.**

(1) This section applies to any arrangement under which a Health Authority or such other health service body as may be prescribed arrange for the provision to them—

- (a) by a person on an ophthalmic list, or
- (b) by a person on a pharmaceutical list,

of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of the principal Act.

(2) Any such arrangement is to be treated as an NHS contract for the purposes of section 4 (other than subsections (4) and (6)).

(3) In this section—

“health service body” means a body which is a health service body for the purposes of section 4;

“ophthalmic list” means a list published in accordance with regulations made under—

- (a) section 39(a) of the principal Act;
- (b) section 26(2)(a) of the <sup>M20</sup>National Health Service (Scotland) Act 1978; or
- (c) Article 62(2)(a) of the <sup>M21</sup>Health and Personal Social Services (Northern Ireland) Order 1972; and

“pharmaceutical list” means a list published in accordance with regulations made under—

- (a) section 42(2)(a) of the principal Act;
- (b) section 27(2) of the National Health Service (Scotland) Act 1978; or
- (c) Article 63(2A)(a) of the 1972 Order.”

(2) In the 1978 Act, after section 17, insert—

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

*“ NHS contracts*

**17AA Provision of certain services under NHS contracts.**

- (1) This section applies to any arrangement under which a Health Board or such other health service body as may be prescribed arrange for the provision to them—
- (a) by a person on an ophthalmic list, or
  - (b) by a person on a pharmaceutical list,
- of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of this Act.
- (2) Any such arrangement is to be treated as an NHS contract for the purposes of section 17A (other than subsections (5) and (7)).
- (3) In this section—
- “health service body” means a person or body which is a health service body for the purposes of section 17A;
- “ophthalmic list” means a list published in accordance with regulations made under—
- (a) section 26(2)(a) of this Act;
  - (b) section 39(a) of the <sup>M22</sup>National Health Service Act 1977; or
  - (c) Article 62(2)(a) of the <sup>M23</sup>Health and Personal Social Services (Northern Ireland) Order 1972; and
- “pharmaceutical list” means a list published in accordance with regulations made under—
- (a) section 27(2) of this Act;
  - (b) section 42(2)(a) of the National Health Service Act 1977; or
  - (c) Article 63(2A)(a) of the 1972 Order.”

**Marginal Citations**

- M19** 1990 c. 19.  
**M20** 1978 c. 29.  
**M21** S.I. 1972/1265 (N.I.14).  
**M22** 1977 c. 49.  
**M23** S.I. 1972/1265 (N.I.14).

*Medical lists and vacancies*

**<sup>F15</sup>32 Medical lists and vacancies: England and Wales.**

**Textual Amendments**

- F15** S. 32 repealed (E.W.) (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 4](#) Note; S.I. 2004/288, art. 6(2)(p) (with art. 8) (as amended

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

PROSPECTIVE

**<sup>F16</sup>33 Medical lists and vacancies: Scotland.**

[<sup>F16</sup>.....]

**Textual Amendments**

**F16** S. 33 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(7)**; S.S.I. 2004/58, art. 2(3)

*Medical practices*

**34 Sale of medical practices.**

(1) In the 1977 Act, for section 54 (sale of medical practices), substitute—

**“54 Sale of medical practices.**

(1) It is unlawful to sell the goodwill of the medical practice of a person who has at any time—

- (a) provided general medical services under arrangements made with any Council, Committee or Authority under the <sup>M24</sup>National Health Service Act 1946, the <sup>M25</sup>National Health Service Reorganisation Act 1973 or this Act, or
- (b) provided or performed personal medical services in accordance with section 28C arrangements,

unless that person no longer provides or performs such services and has never carried on the practice in a relevant area.

(2) In this section—

“goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice;

“medical practice” includes any part of a medical practice; and

“relevant area”, in relation to any Council, Committee or Authority by arrangement with whom a person has at any time—

- (a) provided general medical services, or
- (b) provided or performed personal medical services in accordance with section 28C arrangements,

means the area, district or locality of that Council, Committee or Authority (at that time).

(3) Schedule 10 supplements the provisions of this section.”

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

(2) In the 1978 Act, for section 35 (sale of medical practices), substitute—

**“35 Sale of medical practices.**

(1) It is unlawful to sell the goodwill of the medical practice of a person who has at any time—

- (a) provided general medical services under arrangements made with any Executive Council or Health Board under the <sup>M26</sup>National Health Service (Scotland) Act 1947, the <sup>M27</sup>National Health Service (Scotland) Act 1972 or this Act, or
- (b) provided or performed personal medical services in accordance with section 17C arrangements,

unless that person no longer provides or performs such services and has never carried on the practice in a relevant area.

(2) In this section—

“goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice;

“medical practice” includes any part of a medical practice; and

“relevant area”, in relation to any Executive Council or Health Board by arrangement with whom a person has at any time—

- (a) provided general medical services, or
- (b) provided or performed personal medical services in accordance with section 17C arrangements,

means the area of that Council or Board (at that time).

(3) Schedule 9 supplements the provisions of this section.”

**Marginal Citations**

**M24** 1946 c. 81.

**M25** 1973 c. 32.

**M26** 1947 c. 27.

**M27** 1972 c. 58.

**35 Employment of pre-registration house officers in medical practices.**

(1) The <sup>M28</sup>Medical Act 1983 is amended as follows.

(2) In subsection (2) of section 10 (experience required for full registration as a medical practitioner), for “approved hospitals or approved institutions,” substitute “—

- (a) approved hospitals,
- (b) approved institutions, or
- (c) approved medical practices.”.

(3) In subsection (3) of section 11 (construction of section 10, etc), after the first “where” insert “—

- (a) in the case of an approved hospital or an approved institution,” and at the end insert

*Status: Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II. (See end of Document for details)*

“; or

(b) in the case of an approved medical practice, the person employed satisfies such conditions as to residence as may be prescribed”.

(4) In subsection (4) of section 11—

(a) insert in the appropriate place—

““medical practice” means a prescribed description of practice in which one or more medical practitioners—

(a) provide general medical services under Part II of the <sup>M29</sup>National Health Service Act 1977, Part II of the <sup>M30</sup>National Health Service (Scotland) Act 1978 or Part VI of the <sup>M31</sup>Health and Personal Social Services (Northern Ireland) Order 1972; or

(b) perform personal medical services in accordance with arrangements made under section 28C of the 1977 Act, section 17C of the 1978 Act or the corresponding provisions of the law in force in Northern Ireland;”;

(b) in the definition of “prescribed”, after “means” insert “—

(a) in subsection (3)(b) and in the definition of “medical practice”, prescribed by regulations made by the Secretary of State; and

(b) in the other provisions of this Part.”.

(5) After subsection (4) of section 11 insert—

“(4A) The Education Committee may by regulations provide that the period of employment in a medical practice which may be reckoned towards the completion of any of the periods mentioned in section 10(3)(a) above shall not exceed such period as may be specified in the regulations.”

(6) In subsection (5) of section 11, after “under subsection (2) of section 10 above” insert “ or under subsection (4A) of this section ”.

(7) After subsection (6) of section 11 insert—

“(7) Regulations made by the Secretary of State under this section must be made by statutory instrument; and such a statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Marginal Citations

**M28** 1983 c. 54.

**M29** 1977 c. 49.

**M30** 1978 c. 29.

**M31** S.I. 1972/1265 (N.I.14).

**Status:**

Point in time view as at 01/04/2004. This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Part II.