



# Health Act 2006

## 2006 CHAPTER 28

### PART 4

#### THE NATIONAL HEALTH SERVICE

### CHAPTER 2

#### OPHTHALMIC SERVICES

PROSPECTIVE

#### <sup>F1</sup>38 **General ophthalmic services contracts**

After section 28W of the 1977 Act insert—

*“General ophthalmic services contracts*

#### **28WA General ophthalmic services contracts: introductory**

- (1) A Primary Care Trust may enter into a contract under which primary ophthalmic services are provided in accordance with the following provisions of this Part.
- (2) A contract under this section is called in this Act a “general ophthalmic services contract”.
- (3) Subject to any provision made by or under this Part, a general ophthalmic services contract may make such provision as may be agreed between the Primary Care Trust and the contractor or contractors in relation to—
  - (a) the services to be provided under the contract;
  - (b) remuneration under the contract; and
  - (c) any other matters.

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*Status: Point in time view as at 01/02/2007. This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Health Act 2006, Section 38. (See end of Document for details)*

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- (4) The services to be provided under a general ophthalmic services contract may include—
- (a) services which are not primary ophthalmic services;
  - (b) services to be provided outside the area of the Primary Care Trust.
- (5) In this Part, “contractor”, in relation to a general ophthalmic services contract, means any person entering into the contract with the Primary Care Trust.

#### **28WB Persons eligible to enter into GOS contracts**

- (1) A Primary Care Trust may, subject to such conditions and exceptions as may be prescribed, enter into a general ophthalmic services contract with any person.
- (2) But it may not enter into such a contract with a person who has been disqualified from doing so by an order of disqualification made by virtue of regulations under section 28WC.

#### **28WC Exclusion of contractors**

- (1) The Secretary of State may make regulations conferring on a Primary Care Trust, or another prescribed person, a right to apply to the FHSAA in prescribed circumstances for an order that a person (“P”) be disqualified from entering into a general ophthalmic services contract.
- (2) The regulations may in particular provide for—
  - (a) the review by the FHSAA of an order of disqualification made by virtue of regulations under this section;
  - (b) what is to happen in relation to general ophthalmic services contracts to which P is a party when the order is made.

#### **28WD GOS contracts: payments**

- (1) The Secretary of State may give directions as to payments to be made under general ophthalmic services contracts.
- (2) A general ophthalmic services contract must require payments to be made under the contract in accordance with directions for the time being in force under this section.
- (3) Without prejudice to the generality of the power under subsection (1), a direction under that subsection may—
  - (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
  - (b) provide for payments to be made by reference to—
    - (i) any scheme or scale specified in the direction; or
    - (ii) a determination made by any person in accordance with factors specified in the direction;
  - (c) provide for the making of payments in respect of individual practitioners;

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- (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Primary Care Trust only if it is satisfied as to certain conditions);
  - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before giving a direction under subsection (1), the Secretary of State—
- (a) must consult any body appearing to him to be representative of persons to whose remuneration the direction would relate; and
  - (b) may consult such other persons as he thinks appropriate.
- (5) Section 18(1) and (3)(b) apply in relation to directions under this section.
- (6) References in this section to payments include fees, allowances, reimbursements, loans and repayments.

#### **28WE GOS contracts: other required terms**

- (1) A general ophthalmic services contract must contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).
- (2) Regulations under subsection (1) may in particular make provision as to—
- (a) the manner in which, and standards to which, services are to be provided;
  - (b) the persons who perform services;
  - (c) the persons to whom services are to be provided;
  - (d) the variation of contract terms (other than terms required by or under this Part);
  - (e) rights of entry and inspection (including inspection of clinical records and other documents);
  - (f) the circumstances in which, and the manner in which, the contract may be terminated;
  - (g) enforcement;
  - (h) the adjudication of disputes.
- (3) Regulations under subsection (2)(d) may—
- (a) make provision as to the circumstances in which a Primary Care Trust may impose a variation of contract terms;
  - (b) make provision as to the suspension or termination of any duty under the contract to provide services of a prescribed description.
- (4) Regulations making provision of the kind described in subsection (3)(b) may prescribe services by reference to the manner or circumstances in which they are provided.
- (5) Regulations under subsection (1) must make provision as to the right of persons to whom services are to be provided to choose the persons from whom they are to receive them.

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### **28WF GOS contracts: disputes and enforcement**

- (1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general ophthalmic services contract.
- (2) Regulations under subsection (1) may make provision—
  - (a) for the referral of the terms of the proposed contract to the Secretary of State; and
  - (b) for the Secretary of State, or a person appointed by him, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general ophthalmic services contract to be regarded, in circumstances where he or they so elect, as a health service body for the purposes of section 4 of the National Health Service and Community Care Act 1990, but only so far as concerns the general ophthalmic services contract (and not for any other purpose).
- (4) Regulations under subsection (3) may include provision as to the application of section 4 of that Act in cases where—
  - (a) persons practising in partnership elect to become a health service body; and
  - (b) there is a change in the membership of the partnership.
- (5) Where—
  - (a) by virtue of regulations under subsection (3), subsection (7) of section 4 of that Act applies in relation to a general ophthalmic services contract; and
  - (b) a direction as to payments is made under that provision in relation to the contract,

the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.”

#### **Textual Amendments**

- F1** Ss. 37-42 repealed (1.3.2007 coming into force in accordance with s. 8(4)-(6)) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))

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