



National Health Service Act 2006

2006 CHAPTER 41

PART 4

MEDICAL SERVICES

Other arrangements for the provision of primary medical services

92 Arrangements by Strategic Health Authorities for the provision of primary medical services

- (1) A Strategic Health Authority may make one or more agreements with respect to its area under which primary medical services are provided (otherwise than by the Strategic Health Authority).
- (2) An agreement must be in accordance with regulations under section 94.
- (3) An agreement may not combine arrangements for the provision of primary medical services with arrangements for the provision of primary dental services.
- (4) An agreement may not combine arrangements for the provision of primary medical services with arrangements for the provision of local pharmaceutical services.
- (5) But an agreement may include arrangements for the provision of services which are not primary medical services but which may be provided under this Act, other than under Chapter 1 or 2 of Part 7 (pharmaceutical services and local pharmaceutical services under pilot schemes).
- (6) This Act has effect, in relation to primary medical services provided under an agreement, as if those services were provided as a result of the delegation by the Secretary of State of his functions (by directions given under section 7).
- (7) Regulations may provide—
 - (a) for functions which are exercisable by a Strategic Health Authority in relation to an agreement to be exercisable on behalf of the Strategic Health Authority by a Health Board, and

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- (b) for functions which are exercisable by a Health Board in relation to an agreement made under section 17C of the National Health Service (Scotland) Act 1978 (c. 29) to be exercisable on behalf of the Board by a Strategic Health Authority.

- (8) In this Act, arrangements for the provision of services made under this section are called “section 92 arrangements”.

93 Persons with whom agreements may be made under section 92

- (1) A Strategic Health Authority may make an agreement under section 92 only with one or more of the following—

- (a) an NHS trust or an NHS foundation trust,
- (b) a medical practitioner who meets the prescribed conditions,
- (c) a health care professional who meets the prescribed conditions,
- (d) an individual who is providing services—
 - (i) under a general medical services contract or a general dental services contract or a Welsh general medical services contract or a Welsh general dental services contract,
 - (ii) in accordance with section 92 arrangements, section 107 arrangements, section 50 arrangements, section 64 arrangements, section 17C arrangements or Article 15B arrangements, or
 - (iii) under section 17J or 25 of the 1978 Act or Article 57 or 61 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),
 or has so provided them within such period as may be prescribed,
- (e) an NHS employee, a section 92 employee, a section 107 employee, a section 50 employee, a section 64 employee, a section 17C employee or an Article 15B employee,
- (f) a qualifying body,
- (g) a Primary Care Trust or Local Health Board.

- (2) The power under subsection (1) to make an agreement with a person falling within paragraph (d) or (e) of that subsection is subject to such conditions as may be prescribed.

- (3) In this section—

“the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29),

“Article 15B arrangements” means arrangements for the provision of services made under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),

“Article 15B employee” means an individual who, in connection with the provision of services in accordance with Article 15B arrangements, is employed by a person providing or performing those services,

“health care professional” means a person who is a member of a profession regulated by a body mentioned (at the time the agreement in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),

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“NHS employee” means an individual who, in connection with the provision of services in the health service, the Scottish health service or the Northern Ireland health service, is employed by—

- (a) an NHS trust, an NHS foundation trust or (in Northern Ireland) a Health and Social Services Trust,
- (b) a Primary Care Trust or Local Health Board,
- (c) a person who is providing services under a general medical services contract or a general dental services contract or a Welsh general medical services contract or a Welsh general dental services contract,
- (d) an individual who is providing services as specified in subsection (1)(d)(iii),

“the Northern Ireland health service” means the health service within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972,

“qualifying body” means a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraph (a), (b), (c), (d), (e) or (g) of subsection (1),

“the Scottish health service” means the health service within the meaning of the National Health Service (Scotland) Act 1978,

“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 a person providing or performing those services,

“section 50 arrangements” means arrangements for the provision of services made under section 50 of the National Health Service (Wales) Act 2006 (c. 42),

“section 64 arrangements” means arrangements for the provision of services made under section 64 of that Act,

“section 107 employee” means an individual who, in connection with the provision of services in accordance with section 107 arrangements, is employed by a person providing or performing those services,

“section 92 employee” means an individual who, in connection with the provision of services in accordance with section 92 arrangements, is employed by a person providing or performing those services,

“section 50 employee” means an individual who, in connection with the provision of services in accordance with section 50 arrangements, is employed by a person providing or performing those services,

“section 64 employee” means an individual who, in connection with the provision of services in accordance with section 64 arrangements, is employed by a person providing or performing those services,

“Welsh general medical services contract” means a contract under section 42(2) of the National Health Service (Wales) Act 2006 (c. 42), and

“Welsh general dental services contract” means a contract under section 57(2) of that Act.

94 Regulations about section 92 arrangements

- (1) The Secretary of State may make regulations about the provision of services in accordance with section 92 arrangements.

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- (2) The regulations must include provision for participants other than Strategic Health Authorities to withdraw from section 92 arrangements if they wish to do so.
- (3) The regulations may, in particular—
 - (a) provide that section 92 arrangements may be made only in prescribed circumstances,
 - (b) provide that section 92 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 92 arrangements,
 - (d) impose conditions (including conditions as to qualifications and experience) to be satisfied by persons performing services in accordance with section 92 arrangements,
 - (e) require details of section 92 arrangements to be published,
 - (f) make provision with respect to the variation and termination of section 92 arrangements,
 - (g) provide for parties to section 92 arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 9,
 - (h) provide for directions, as to payments, made under section 9(11) (as it has effect as a result of regulations made by virtue of paragraph (g)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court.
- (4) The regulations may also require payments to be made under the arrangements in accordance with directions given for the purpose by the Secretary of State.
- (5) A direction may 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.
- (6) The regulations may also include provision requiring a Primary Care Trust, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person who is providing services under section 92 arrangements and who so requests.
- (7) The regulations may also include provision for the resolution of disputes as to the terms of any proposed section 92 arrangements, and in particular may make provision—
 - (a) for the referral of the terms of the proposed arrangements 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 arrangements may be entered into.
- (8) The regulations must provide for the circumstances in which a person providing primary medical services under section 92 arrangements—
 - (a) must or may accept a person as a patient to whom such services are so provided,
 - (b) may decline to accept a person as such a patient,
 - (c) may terminate his responsibility for a patient.
- (9) The regulations must make provision as to the right of patients to choose the persons from whom they receive services under section 92 arrangements.

95 Transfer of liabilities relating to section 92 arrangements

- (1) The Secretary of State may by order make provision for any rights and liabilities arising under an agreement to provide primary medical services under section 92 to be transferred from Strategic Health Authorities to Primary Care Trusts and from Primary Care Trusts to Strategic Health Authorities.
- (2) Subsection (1) does not affect any other power of the Secretary of State to transfer rights and liabilities under this Act.