
STATUTORY INSTRUMENTS

1997 No. 1177

**The Health Services (Primary Care)
(Northern Ireland) Order 1997**

PART II

PILOT SCHEMES FOR PRIMARY CARE

Preparation and making of pilot schemes

Pilot schemes

3.—(1) In this Order “pilot scheme” means one or more agreements made by a board with respect to its area and in accordance with this Part 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) A pilot scheme may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services.

(3) A pilot scheme may include arrangements for the provision of health services—

- (a) which are not personal medical services or personal dental services; but
- (b) which may be provided under Part II of the 1972 Order.

(4) In this Order “piloted services” means services provided in accordance with a pilot scheme (including any services to which the scheme applies by virtue of paragraph (3)).

(5) Except to such extent as may be prescribed—

- (a) a patient for whom personal medical services are provided under a pilot scheme is not to count as a person for whom arrangements must be made by the board concerned under Article 56 of the 1972 Order;
- (b) a patient for whom personal dental services are provided under a pilot scheme is not to count as a person for whom arrangements must be made by the board concerned under Article 61 of the 1972 Order.

(6) The functions of an HSS trust include power to provide piloted services, and to do so as a member of a qualifying body (within the meaning of Article 4 or 5).

(7) For the purposes of this Part—

“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 VI of the 1972 Order; 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 VI of the 1972 Order.

Provision of personal medical services under a pilot scheme

4.—(1) This Article applies to any pilot scheme under which personal medical services are provided.

(2) An agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme may be made by a board only with one or more of the following—

- (a) an HSS trust;
- (b) a suitably experienced medical practitioner;
- (c) an HSS employee or a pilot scheme employee;
- (d) a qualifying body;
- (e) an individual who is providing personal medical services under that or another pilot scheme.

(3) In this Article—

“HSS employee” means an individual who, in connection with the provision of health services, is employed by—

- (a) an HSS trust;
- (b) a medical practitioner whose name is included in a medical list; or
- (c) a medical practitioner who is providing personal medical services in accordance with a pilot scheme;

“pilot scheme employee” means an individual who, in connection with the provision of personal medical services in accordance with a pilot scheme, is employed by an individual providing those services;

“qualifying body” means a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2).

(4) For the purposes of this Article, a medical practitioner is suitably experienced if he is suitably experienced for the purposes of Article 12 of this Order or Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978.

Provision of personal dental services under a pilot scheme

5.—(1) This Article applies to any pilot scheme under which personal dental services are provided.

(2) An agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme may be made by a board only with one or more of the following—

- (a) an HSS trust;
- (b) a dental practitioner whose name is included in a dental list;
- (c) an HSS employee or a pilot scheme employee;
- (d) a qualifying body;
- (e) an individual who is providing personal dental services under that or another pilot scheme.

(3) In this Article—

“dental list” means a list prepared in accordance with regulations under Article 61(2)(a) of the 1972 Order;

“HSS employee” means an individual who, in connection with the provision of health services, is employed by—

- (a) an HSS trust;

- (b) a dental practitioner whose name is included in a dental list; or
- (c) a dental practitioner who is providing personal dental services in accordance with a pilot scheme;

“pilot scheme employee” means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by an individual providing those services;

“qualifying body” means—

- (a) a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry; or
- (b) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2).

Proposals for pilot schemes

6.—(1) Before any pilot scheme may be made, the board concerned must prepare proposals for the scheme and submit them to the Department.

(2) A board must prepare and submit such proposals if it is asked to do so by a person—

- (a) who wishes to provide piloted services; and
- (b) with whom an agreement which constitutes, or is part of, a pilot scheme may be made;

but otherwise a board may not do so.

(3) A request to a board under paragraph (2) must—

- (a) be made in writing; and
- (b) comply with such requirements (if any) as may be prescribed.

(4) In preparing proposals for a pilot scheme, a board must comply with any directions given to it by the Department as to the matters to be dealt with, and information to be included, in the proposals.

(5) Before submitting proposals for a pilot scheme, a board must (in addition to complying with any requirements about consultation imposed by or under any other statutory provision) comply with any directions given to it by the Department about the extent to which, and manner in which, it is to consult on the proposals.

(6) The Department may give directions as to—

- (a) the matters to which a board must have regard in making any recommendation to the Department when submitting proposals for a pilot scheme; and
- (b) the form in which any such recommendation is to be made.

Approval of pilot schemes

7.—(1) If proposals for a pilot scheme are submitted to the Department under Article 6, it must—

- (a) approve them as submitted;
- (b) make such modifications as it considers appropriate and approve them as modified; or
- (c) reject them.

(2) The Department may not approve proposals for a pilot scheme unless it is satisfied that they include satisfactory provision for any participant other than the board to withdraw from the scheme if he wishes to do so.

(3) Where—

- (a) the Department intends to approve proposals for a pilot scheme; and

- (b) it appears to the Department that the effect of implementing the proposals would be to increase or reduce the number of general medical practitioners in the area of the board concerned,

the Department must have regard to the effect that the proposals, as the Department intends to approve them, are likely to have on the distribution of general practitioners in Northern Ireland.

(4) The Department must notify the board concerned, in writing, of any decision made under this Article.

(5) In this Article “general practitioner” means any, medical practitioner who is providing general medical services or performing personal medical services.

Making of pilot schemes

8.—(1) If the Department approves proposals for a pilot scheme and notifies the board concerned in accordance with Article 7, the board must implement the proposals in accordance with directions given by the Department.

(2) A proposed participant in a pilot scheme (other than the board concerned) may withdraw at any time before the proposals relating to him are implemented.

(3) A pilot scheme, as implemented, may differ from the proposals for the scheme approved by the Department only if the Department agrees to the variation or—

- (a) directions given by the Department (either under paragraph (1) or generally) authorise variations that satisfy specified requirements; and
- (b) the variation satisfies those requirements.

(4) As soon as, is reasonably practicable after implementing proposals for a pilot scheme, the board concerned must (in accordance with any directions given to it by the Department) publish details of the scheme.

Reviews of pilot schemes

Reviews of pilot schemes

9.—(1) At least one review of the operation of each pilot scheme must be conducted by the Department.

(2) Each pilot scheme must be reviewed under this Article before the end of the period of three years beginning with the date on which piloted services are first performed under the scheme.

(3) When conducting a review of a pilot scheme, the Department must give—

- (a) the board concerned, and
- (b) any person providing services under the scheme,

an opportunity to comment on any matter relevant to the review.

(4) Otherwise, the procedure on any review is to be determined by the Department.

Variation and termination of pilot schemes

Variation and termination of pilot schemes

10.—(1) The Department may by directions require a pilot scheme to be varied by the board concerned in accordance with the directions.

(2) Directions under paragraph (1) may be given—

- (a) in response to a request made by the board or by any other participant in the scheme; or
- (b) on the Department's own initiative.

(3) The Department may give directions authorising boards to vary pilot schemes (otherwise than in response to directions given under paragraph (1)) in such circumstances, and subject to such conditions, as may be specified in the directions.

(4) If the Department is satisfied that a pilot scheme is (for any reason) unsatisfactory, it may give directions to the board concerned requiring the board to bring the scheme to an end in accordance with the terms of the directions.

General

Relationship between this Part and the 1972 Order

11.—(1) The provisions of the 1972 Order, apart from Article 17(1) (power of Department to direct board to exercise functions on its behalf), apply in relation to functions of the Department under this Part as if they were functions of the Department under Part II of that Order.

- (2) The 1972 Order has effect in relation to piloted services—
- (a) subject to any provision of, or made under, this Part; but
 - (b) otherwise as if those services were provided as a result of the delegation by the Department (by directions given under Article 17(1) of the 1972 Order) of functions of the Department under Part II of that Order.

(3) The functions of a board in relation to piloted services are primary functions of the board for the purposes of Article 9 of the 1991 Order.

Medical practitioners to be suitably experienced

12.—(1) Any medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme must be suitably experienced.

- (2) Paragraph (1) does not prevent the performance of personal medical services by—
- (a) a person who is acting in the course of acquiring the experience prescribed by regulations made under Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978;
 - (b) a person who is provisionally registered under section 15 or 21 of the Medical Act 1983, acting in the course of his employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act); or
 - (c) such other category of person as may be prescribed.

(3) Paragraphs (2) to (7) of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978 (meaning of “suitably experienced”) apply for the purposes of this Article as they apply for the purposes of Part II of that Order.

Leaving medical lists

13.—(1) Except in such circumstances and to such extent as may be prescribed, a medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme may not provide general medical services under Part VI of the 1972 Order.

(2) Except in such circumstances as may be prescribed, a board must remove from its medical lists the name of any medical practitioner who is performing personal medical services in connection with the provision of such services under a pilot scheme made by it or by any other board.

Preferential treatment on transferring to medical lists

14.—(1) Before the Department approves a pilot scheme, it must determine whether a participating medical practitioner is to be given preferential treatment under Schedule 1 if he makes an application for his name to be included in a medical list of the board after ceasing to perform personal medical services under the scheme.

(2) Before a pilot scheme is varied so as to permit a new medical practitioner to perform personal medical services under the scheme, the Department must make a determination under this Article in relation to the new practitioner.

(3) The Department may at any time make a determination under this Article varying a determination about a medical practitioner if it is asked to do so by the practitioner concerned.

(4) Before making any determination under this Article, the Department must publish the criteria by reference to which the Department will make it.

(5) Those criteria may be—

- (a) criteria applying generally to all determinations;
- (b) criteria applying only to the pilot scheme in question; or
- (c) a mixture of both.

(6) The Department must notify the board and the medical practitioner or practitioners concerned in writing of any determination made by it under this Article.

(7) Different determinations may be made with respect to different medical practitioners performing personal medical services under the same pilot scheme.

(8) A determination may identify the medical practitioner or practitioners to which it applies by name or in any other way.

(9) Schedule 1 has effect in relation to preferential treatment for medical practitioners who wish to transfer to medical lists.

Returning to fund-holding status

15.—(1) Regulations must be made providing for a medical practitioner who—

- (a) has provided or performed personal medical services under a pilot scheme; 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 Department 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.

(2) For the purposes of this Article “fund-holding status” has such meaning as may be prescribed.

Liabilities and obligations in relation to deputies

16.—(1) Regulations may make provision with respect to the liabilities and obligations of—

- (a) a Part VI practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a pilot scheme practitioner deputises, or is engaged to deputise, for him; or

- (b) a Part VI practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a pilot scheme practitioner, in connection with that practitioner's obligation to perform personal medical services under a pilot scheme.
- (2) The regulations may, in particular—
 - (a) modify any liabilities or obligations which would otherwise be applicable by virtue of Part VI of the 1972 Order;
 - (b) apply (with or without modifications) any provision made by or under Part VI of the 1972 Order (including any provision so made by virtue of Article 10 of the Health and Medicines (Northern Ireland) Order 1988).
- (3) In this Article—
 - “Part VI practitioner” means a medical practitioner who provides general medical services; and
 - “pilot scheme practitioner” means a medical practitioner who performs personal medical services under a pilot scheme.

HSS contracts

17.—(1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate, that individual or body may make an application under this Article to become a health services body.

(2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this Article to become a single health services body.

- (3) An application must—
 - (a) be made to the Department in accordance with such provisions as may be prescribed; and
 - (b) specify the pilot scheme in relation to which it is made.

(4) Except in such cases as may be prescribed, the Department may grant an application.

(5) If an application is granted, the Department must specify when it is to come into effect and, as from that time—

- (a) in the case of an application under paragraph (1), the applicant is; and
- (b) in the case of an application under paragraph (2), the applicants together are,

a health services body for the purposes of Article 8 of the 1991 Order (HSS contracts).

(6) That Article has effect in relation to such a health services body (“a pilot scheme health services body”) as if the functions referred to in paragraph (1) of that Article were the provision of piloted services.

(7) Except in such circumstances as may be prescribed, a pilot scheme health services body resulting from an application under paragraph (2) is to be treated, at any time, as consisting of those providing piloted services under the scheme.

(8) A direction as to payment made under Article 8(8) of the 1991 Order against, or in favour of, a pilot scheme health services body is enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

(9) Regulations may provide for a pilot scheme health services body to cease to be such a body in prescribed circumstances.

- (10) The Department must—
 - (a) maintain and publish a list of pilot scheme health services bodies;
 - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

- (11) The list is to be published in such manner as the Department considers appropriate.

Financial provisions

Funding of preparatory work

18.—(1) Provision may be made by regulations for boards to make payments of financial assistance for preparatory work.

- (2) “Preparatory work” means work which it is reasonable for a person to undertake—
- (a) in connection with preparing proposals for a pilot scheme; or
 - (b) in preparing for the provision by him of any piloted services.
- (3) Regulations under this Article may, in particular, include provision—
- (a) prescribing the circumstances in which payments of financial assistance may be made;
 - (b) imposing a limit on the amount of any payment of financial assistance which a board may make in any prescribed period in respect of any one person or any one pilot scheme;
 - (c) imposing a limit on the aggregate amount which a board may pay by way of financial assistance in any one financial year;
 - (d) requiring a person to whom assistance is given under this Article to comply with such conditions as may be imposed in accordance with prescribed requirements; and
 - (e) for repayment in the case of a failure to comply with any condition so imposed.

Fund-holding practices

- 19.** Article 17 of the 1991 Order (recognition of fund-holding practices of doctors) applies—
- (a) in relation to the provision of personal medical services under a pilot scheme as it applies in relation to the provision of general medical services in accordance with arrangements under Article 56 of the 1972 Order; but
 - (b) only in relation to medical practitioners who are not employed by another person.

Charges for dental treatment

20.—(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 pilot schemes.

(2) “Dental treatment” means personal dental services other than those to which paragraph 1(a)(k) of Schedule 15 to the 1972 Order 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 VI of the 1972 Order.

- (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 paragraph 1(a)(iaa) of Schedule 15 to the 1972 Order; and
 - (b) treatment for which a charge is payable under the regulations,

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 paragraph (6)(b) “qualifying full-time education” has the same meaning as in paragraph 2A(3) of Schedule 15 to the 1972 Order.

(8) The regulations may provide, with respect to any exemption under paragraph (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.