

## SCHEDULES

### SCHEDULE 1

Article 14.

#### PREFERENTIAL TREATMENT ON TRANSFERRING TO MEDICAL LISTS

##### *Cases where preference is given*

1.—(1) This Schedule applies if the Department determines under Article 14 that a medical practitioner is to be given preferential treatment on making an application for his name to be included in a medical list of a board after ceasing to perform personal medical services in connection with the provision of such services under a pilot scheme and the conditions mentioned in sub-paragraph (2) are satisfied.

(2) The conditions are that—

- (a) the practitioner has made an application in the prescribed manner to the board concerned for his name to be included in a medical list of the board (“the relevant list”); and
- (b) his name has not been included in that list since he ceased to perform the services under the scheme.

##### *The preferential treatment*

2.—(1) The board must include the applicant’s name in the relevant list unless—

- (a) the applicant is not eligible for inclusion in that list by virtue of a direction under paragraph 4;
- (b) he is otherwise not eligible for inclusion in that list; or
- (c) the question of whether to give a direction under paragraph 4 is not resolved.

(2) Regulations may make provision as to conditions to be attached to the applicant’s entry in the relevant list in such cases.

##### *Representations against preferential treatment*

3.—(1) The Tribunal must inquire into any representations by the board that the inclusion of the applicant’s name in the relevant list would be prejudicial to the efficiency of the general medical services provided in its area.

(2) The Tribunal may inquire into any similar representations by any other person.

(3) Where any representations of a kind mentioned in sub-paragraph (1) or (2) are made to the Tribunal and the applicant withdraws his application without the consent of the Department, the Tribunal may proceed to inquire into any of the representations, and exercise the powers in relation to disqualification conferred on it by this Schedule, as if the application had not been withdrawn.

(4) The representations must be made in the prescribed manner and before the end of such period as may be prescribed.

(5) Regulations may make provision for the publication of information about—

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- (a) applications to which this Schedule relates; and
- (b) the right to make representations about such applications.

*Power of Tribunal to give directions*

4.—(1) If the Tribunal considers that the inclusion of the applicant's name in the relevant list would be prejudicial to the efficiency of the general medical services provided in the board's area, it—

- (a) must direct that the applicant's name is not to be included in that list; and
- (b) may, if it thinks fit, direct that his name is not to be included—
  - (i) in any other medical list; or
  - (ii) in any other specified medical list or lists.

(2) If the Tribunal gives a direction under sub-paragraph (1)(b)(i) it may also, if it thinks fit, declare that the applicant is not fit to be engaged in any capacity in the provision of general medical services.

(3) A direction by the Tribunal under this paragraph is binding on the board or boards concerned as from the time when the direction is given.

*Termination of directions*

5.—(1) A person's name may not be included (whether by virtue of paragraph 2 or otherwise) in any medical list to which a direction under paragraph 4 relates before the Tribunal gives a direction to the contrary under this paragraph.

(2) For the purpose of deciding whether or not to give a direction under this paragraph, the Tribunal may hold an inquiry.

*Directions in Great Britain*

6. A person's name may not be included in any medical list (whether by virtue of paragraph 2 or otherwise) if he is prevented under provisions in Great Britain which correspond to this Schedule from being included in all corresponding lists there.

*Regulations*

7.—(1) Regulations must provide—

- (a) for inquiries under this Schedule to be held in accordance with such procedure as may be prescribed by or determined under the regulations;
- (b) for conferring on the Tribunal such powers as the Department considers necessary; and
- (c) for the publication of decisions of the Tribunal under the regulations and of the imposition and removal of any disqualifications imposed under paragraph 6.

(2) The regulations must, in particular—

- (a) provide for any person who is the subject of an inquiry to have an opportunity—
  - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal; and
  - (ii) of being heard by the Tribunal and of calling witnesses and producing other evidence on his behalf; and

- (b) provide for the hearing to be in public if the person who is the subject of the inquiry so requests.

### *Interpretation*

8. For the purposes of this Schedule the question of whether to give a direction under paragraph 4 is resolved if—

- (a) the period for making representations under paragraph 3 has ended without the Tribunal receiving any such representations;
- (b) such representations have been received but the Tribunal has decided—
  - (i) not to inquire into them; or
  - (ii) not to give a direction under paragraph 4; or
- (c) a direction has been given by the Tribunal.

## SCHEDULE 2

Article 32(1).

### AMENDMENTS

#### *The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)*

In Article 2(2) insert at the appropriate places—

““Article 15B arrangements” means arrangements under Article 15B;

“health services body” has the meaning given in Article 8(2A) of the 1991 Order;

“medical lists”, in relation to a Health and Social Services Board, means—

- (a) the list of medical practitioners undertaking to provide general medical services (other than maternity medical services) for persons in its area, kept by the Board under regulations under Article 56(2)(a); and
- (b) the list of medical practitioners undertaking to provide maternity medical services for persons in its area, kept by the Board under regulations under Article 56(2)(b);

“personal dental services” has the meaning given in Article 15B(6);

“personal medical services” (except in Article 56) has the meaning given in Article 15B(6);

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;”.

In Article 11(2) after “Part VI” insert “and every person providing, and every medical practitioner performing, personal medical services in accordance with Article 15B arrangements”.

In Article 17 after paragraph (1) insert—

“(1ZA) A Health and Social Services Board shall, in accordance with regulations and directions, perform such functions in relation to Article 15B arrangements as may be prescribed.

(1ZB) Regulations under paragraph (1ZA) may, in particular—

- (a) prescribe functions in relation to training;
- (b) provide for appeals to the Department or a prescribed body in relation to functions prescribed by the regulations.”.

In Article 52(2) at the end add—

“(g) the Health Services (Primary Care) (Northern Ireland) Order 1997.”.

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In Article 56(2), omit sub-paragraphs (e) and (f).

In Article 61(2), omit sub-paragraph (c).

In Article 63(1) for the words from “and the provision of drugs” to the end substitute “and the services provided in accordance with the arrangements are, together with additional pharmaceutical services provided in accordance with a direction under Article 63A, referred to in this Order as “pharmaceutical services”.”.

In Article 64(2) after “Article 63(1)(c)” insert “, or additional pharmaceutical services provided in accordance with a direction under Article 63A.”.

In Article 68(1)(a) for the words from “persons providing” to “Part VI” substitute “persons—

- (i) providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, or
- (ii) providing, in accordance with Article 15B arrangements, personal medical services, personal dental services or other services of a kind that may be provided under Part VI.”.

In Schedule 10, renumber paragraph 1 as sub-paragraph (1) of that paragraph and at the end of that paragraph insert—

“(2) Where a person has at any time provided or performed personal medical services in accordance with Article 15B arrangements, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner.”.

In Schedule 11, in paragraph 5A, in sub-paragraph (2) after “sub-paragraph (1)(c)” insert “as it has effect in relation to the functions mentioned below” and after that sub-paragraph insert—

“(2A) In sub-paragraph (1)(c) as it has effect in relation to functions of the Tribunal conferred by or under any statutory provision relating to the preferential treatment of medical practitioners on transferring to medical lists, the reference to the person concerned is a reference to the medical practitioner to whom the matter before the Tribunal relates.”.

#### *The Dentists Act 1984 (c. 24)*

In section 53(3)(a)(iii) for “or 9” substitute “, 9 or 15B”.

#### *The Health and Medicines (Northern Ireland) Order 1988 (NI 24)*

In Article 10 at the end add—

“(4) This Article applies also in relation to additional pharmaceutical services provided in accordance with a direction under Article 63A of the principal Order.”.

#### *The Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)*

In Article 8 after paragraph (2) insert—

“(2A) The bodies mentioned in paragraph (2) may be referred to as “health services bodies”.”.

In Article 10 after paragraph (5) insert—

“(5A) The functions of an HSS trust also include power to provide services in accordance with arrangements made under Article 15B of the principal Order, and to do so as a member of a qualifying body (within the meaning of Article 15C of that Order).”.

In Article 17(1) after “Order” insert “, or (in the case of practitioners who are not employed by another person) personal medical services in accordance with arrangements made under Article 15B of that Order”.

In Article 18(4) for sub-paragraph (b) substitute—

- “(b) provide that the goods and services (other than general medical services or personal medical services provided in accordance with arrangements made under Article 15B of the principal Order) which may be purchased by or on behalf of the members of a practice out of allotted sums for practice patients shall be such as may be specified in a list approved for the purpose under the regulations; and”.

In Article 18 for paragraph (7) substitute—

“(7) In relation to a Part VI medical practitioner—

- (a) whose name is included in the medical lists of only one Health and Social Services Board, and
- (b) who practises on his own or in partnership with others all of whom are Part VI medical practitioners whose names are included only in that Board’s medical lists,

the reference in paragraph (5) to the relevant Health and Social Services Board is to be construed as a reference to that Board.

(8) In relation to a medical practitioner who is not within paragraph (7), that reference is to be construed as a reference to the Health and Social Services Board in whose area most of the practice patients live.

(9) In this Article—

“Part VI medical practitioner” means a medical practitioner who provides general medical services under Part VI of the principal Order and does not perform personal medical services in accordance with arrangements made under Article 15B of that Order; and

“practice patient” means—

- (a) in relation to a medical practitioner who practises otherwise than in partnership, an individual who is on that practitioner’s list of patients (or, if that practitioner and one or more other medical practitioners together have a single list of patients in connection with Article 15B arrangements, an individual who is on that single list);
- (b) in relation to a medical practitioner who is one of two or more practitioners who practise in partnership with each other, an individual who is on the list of patients of any of those practitioners (or, if any of those practitioners together have a single list of patients in connection with Article 15B arrangements, an individual who is on that single list).”.

In Article 21(1) for “paragraph (2)” substitute “paragraphs (2) and (8)”.

In Article 21(3)—

- (a) in sub-paragraph (a) after “who” insert “is on a medical list of a Health and Social Services Board and”; and

(b) for sub-paragraph (b) substitute—

- “(b) in a case of two or more medical practitioners who practise in partnership with each other, each medical practitioner who is on a medical list of a Health and Social Services Board;”.

In Article 21 after paragraph (8) insert—

“(9) This Article does not apply in relation to the performance or provision of personal medical services in accordance with arrangements made under Article 15B of the principal Order.”.

*The Access to Health Records (Northern Ireland) Order 1993 (NI 4)*

In Article 2(2) in the definition of “general practitioner” for the words from “providing” to the end substitute

“providing—

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- (a) general medical services in accordance with arrangements made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972; or
- (b) personal medical services in accordance with arrangements made under Article 15B of that Order;”.

In Article 3(2) for sub-paragraph (a) substitute—

- “(a) in the case of a record made by a general practitioner (other than an employed practitioner), or by a health professional employed by such a general practitioner—
  - (i) the general practitioner on whose list the patient is included (or, where the patient is included on the list of a medical practice consisting of two or more partners who are general practitioners, any such partner); or
  - (ii) where the patient is not on any such list, the Health and Social Services Board by arrangement with which a general practitioner last treated him;”.

*The Trade Union and Labour Relations (Northern Ireland) Order 1995 (NI 12)*

In Article 144—

- (a) after “person” insert “performing personal medical services or personal dental services”;
- (b) after “Article” insert “15B;”.

SCHEDULE 3

Article 32(2).

REPEALS

Number	Short title	Extent of repeal
<a href="#">1972 NI 14.</a>	The Health and Personal Social Services (Northern Ireland) Order 1972.	Article 56(2)(e) and (f).  Article 61(2)(c).
<a href="#">1991 NI 1.</a>	The Health and Personal Social Services (Northern Ireland) Order 1991.	Article 31(1)(a)(iii).