



National Health Service Act 1977

1977 CHAPTER 49

PART II

GENERAL MEDICAL, GENERAL DENTAL, GENERAL OPHTHALMIC, AND PHARMACEUTICAL SERVICES

Modifications etc. (not altering text)

- C1** Pt. II modified by S.I. 1982/288, Sch. 2 para. 1 Table
- C2** Pt. II restricted (1.4.1998) by 1997 c. 46, s. 12; S.I. 1998/631, art. 2(a), Sch. 1
- C3** Pt. II power to modify conferred (1.4.1998) by 1997 c. 46, s. 15(2)(a); S.I. 1998/631, art. 2(1)(a), Sch. 1
- Pt. II power to apply conferred (1.4.1998) by 1997 c. 46, s. 15(2)(b); S.I. 1998/631, art. 2(1)(b), Sch. 1

General medical services

29 Arrangements and regulations for general medical services.

[^{F1}(1) It is the duty of every Family Practitioner Committee, in accordance with regulations, to arrange as respects their locality with medical practitioners to provide personal medical services for all persons in the locality who wish to take advantage of the arrangements.

(1A) The services so provided are referred to in this Act as “general medical services”.]

(2) Regulations may provide for the definition of the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance, and the regulations shall include provision—

- (a) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services;
- (b) for conferring a right on any person to choose, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended,

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- subject to the consent of the practitioner so chosen and to any prescribed limit on the number of patients to be accepted by any practitioner;
- (c) for the distribution among medical practitioners whose names are on the lists of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner or have been refused by the practitioner chosen;
 - (d) for the issue to patients or their personal representatives by medical practitioners providing those services of such certificates as may be prescribed being certificates reasonably required by them under or for the purposes of any enactment;
 - (e) for the removal from the list of medical practitioners undertaking to provide general medical services for persons in any [^{F2}locality] of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general medical services for persons in that [^{F2}locality].
 - [^{F3}(f) for the making of arrangements for the temporary provision of general medical services [^{F4}in the locality of a Family Practitioner Committee];
 - (g) for the circumstances in which a name added to the list by virtue of subsection (6) below may be removed from it.]
- (3) Regulations under subsection (2) above may provide for the personal medical services there mentioned to include the provision of, and services connected with, any such advice, examination and treatment as are mentioned in paragraph (b) of section 5(1) above.
- [^{F5}(4) The remuneration to be paid under the arrangements mentioned in subsection (1) above to a practitioner who provides general medical services shall not, except in special circumstances, consist wholly or mainly of a fixed salary which has no reference to the number of patients for whom he has undertaken to provide such services.]
- [^{F6}(5) Regulations shall—
- (a) include provision for the making to a medical practitioner providing general medical services of payments in respect of qualifying services provided by a spouse or other relative of his; and
 - (b) provide that the rates and conditions of payment and the qualifying services in respect of which the payments may be made shall be such as may be determined by the Secretary of State after consultation with such bodies as he may recognise as representing such medical practitioners.]

[^{F7}(6) The persons with whom arrangements for the temporary provision of general medical services in a [^{F8}locality] may be made by virtue of regulations under subsection (2) above include medical practitioners who are not on the list of medical practitioners providing such services in the [^{F8}locality], and the power to prepare and publish lists of medical practitioners conferred by paragraph (a) of that subsection accordingly includes power to add the names of medical practitioners with whom such arrangements are made to the list.

(7) Regulations may provide that this Act and any regulations made under it shall apply in relation—

 - (a) to the making of arrangements for the temporary provision of general medical services; and

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- (b) to the provision of general medical services in pursuance of any such arrangements,
subject to such modifications as may be specified in the regulations.
- (8) Where the registration of a medical practitioner in the register of medical practitioners is suspended—
- (a) by a direction of the Health Committee of the General Medical Council under [^{F9}section 37(1) or (2) of the ^{M1}Medical Act 1983] (unfitness to practice by reason of physical or mental condition);
 - (b) by an order of that Committee under [^{F9}section 38(1)] of that Act (order for immediate suspension); or
 - (c) by an interim order of the Preliminary Proceedings Committee of the Council under [^{F9}section 42(3)(b)] of that Act,
- the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services in person during the suspension.]

Textual Amendments

- F1** S. 29(1)(1A) substituted for s. 29(1) by S.I. 1985/39, **art. 7(3)(a)**
- F2** Word substituted by S.I. 1985/39, **art. 7(3)(b)(i)**
- F3** S. 29(2)(f)(g) added by Health and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 14, **Sch. 6 para. 2(1)**
- F4** Words added by S.I. 1985/39, **art. 7(3)(b)(ii)**
- F5** S. 29(4) ceased to have effect (*prosp.*) by National Health Service Act 1966 (c. 8, SIF 113:2), **s. 10(3)**, (as substituted (29.8.1977) by Sch. 15 para. 37(b) of this Act)
- F6** S. 29(5) added by Health Services Act 1980 (c. 53, SIF 113:2), **s. 7**
- F7** S. 29(6)–(8) inserted by Health and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 14, **Sch. 6 para. 2(2)**
- F8** Word substituted by S.I. 1985/39, **art. 7(3)(c)**
- F9** Words substituted by Medical Act 1983 (c. 54, SIF 83:1), s. 56(1), **Sch. 5 para. 16(a)**

Modifications etc. (not altering text)

- C4** S. 29 extended by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 17(1)**
- C5** S. 29(4) modified by S.I. 1974/160, **reg. 19(16)(a)** (as substituted by S.I. 1985/1053, **reg. 3(5)**)

Marginal Citations

- M1** 1983 c. 54(83:1).

[^{F10}29A Medical lists.

- (1) A Health Authority may not, under section 29, arrange with a medical practitioner for him to provide general medical services for persons in the Authority's area unless his name is included in the Authority's medical list.
- (2) A medical practitioner is entitled to be included in a Health Authority's medical list only if—
 - (a) he is eligible for inclusion in the list; and
 - (b) he is nominated or approved, in accordance with regulations under section 29B, for appointment to fill a vacancy which relates (whether wholly or in part) to the area of the Authority.

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- (3) [^{F11}Subject to any provision made under section 43C] a medical practitioner is eligible for inclusion in a medical list if—
- (a) he has not attained the age specified in regulations under section 8 of the ^{M2}Health and Medicines Act 1988 (retirement age for practitioners); and
 - (b) he is not disqualified, or treated as [^{F12}disqualified for inclusion in the list by, or by virtue of a direction of, the NHS Tribunal]or any corresponding tribunal in Scotland or Northern Ireland.
- (4) Regulations may make provision in relation to delaying a person’s inclusion in a medical list in prescribed circumstances.
- [Regulations may make provision in relation to the supply to a Health Authority, by a
- ^{F13}(4A) medical practitioner who is included in their medical list (or, as respects paragraph (a), by arrangement with him), of—
- (a) information of a prescribed description; and
 - (b) a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act.]
- (5) This section is subject to section 29(6) (temporary provision of general medical services) and any provision of, or made under, an enactment relating to the right of a medical practitioner to transfer to a medical list.
- (6) In this Act “medical list”, in relation to a Health Authority, means the list of medical practitioners undertaking to provide general medical services for persons in their area, kept by the Authority under regulations made under section 29(2)(a).]

Textual Amendments

- F10** S. 29A inserted (10.12.1998) by 1997 c. 46, s. 32(1); S.I. 1998/2840, art. 2(3), **Sch.**
- F11** Words in s. 29A inserted (1.4.2000) by 1999 c. 8, ss. 9(2), 67; S.I. 1999/2793, art. 2 (3)(b); S.I. 2000/1041, art. 2(a)
- F12** Words in s. 29A(3)(b) substituted (*prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 17** (which substitution repealed (*prosp.*) by 2001 c. 15, ss. 67(2), 70(2), **sch. 6 Pt. I**) (with ss. 64(9), 65(4))
- F13** S. 29A(4A) inserted (22.11.2001 for certain purposes (E.) 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) (E.) and otherwise *prosp.*) by 2001 c. 15, ss. 20(2), 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), **Sch. 1 Pt. II**

Modifications etc. (not altering text)

- C6** S. 29A(2)(b) excluded (1.4.1998: subject to transitional provisions) by 1997 c. 46, s. 13(9), **Sch. 1 para. 2(2)**; S.I. 1998/631, art. 2(1)(a), **Sch. 1**

Marginal Citations

- M2** 1988 c. 49.

VALID FROM 10/12/1998

[^{F14}29B Vacancies for medical practitioners.

- (1) Regulations may make provision in relation to the filling of vacancies for medical practitioners to provide general medical services.

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- (2) The regulations may, in particular, include provision for—
- (a) references by a Health Authority to the Medical Practices Committee as to whether there is, or will be, a vacancy for a medical practitioner in a locality;
 - (b) the determination of such references by the Medical Practices Committee;
 - (c) the determination by the Medical Practices Committee of conditions of practice to be imposed on any medical practitioner who fills a particular vacancy;
 - (d) the determination by a Health Authority of whether a vacancy is to be filled by a member of a partnership or by a sole practitioner;
 - (e) the nomination by a Health Authority of a medical practitioner for appointment to fill a vacancy as a sole practitioner;
 - (f) the approval by a Health Authority of a medical practitioner for appointment to fill a vacancy as a member of a partnership.
- (3) The regulations may also make provision in relation to—
- (a) criteria to be applied in making decisions under the regulations,
 - (b) the variation or revocation of such decisions (including appeals to the Secretary of State on points of law), or
 - (c) vacancies relating to the area of one Health Authority which also relate to the area of another Health Authority or a Health Board,
- and may contain such transitional provisions as the Secretary of State considers appropriate.
- (4) Regulations which make provision about vacancies which relate partly to the area of a Health Board may, in particular, provide that section 29A(2)(b) is to have effect in prescribed circumstances as if the reference to regulations under this section were a reference to regulations under section 19B of the ^{M3}National Health Service (Scotland) Act 1978.
- (5) In this section—
- “conditions of practice” means conditions—
- (a) specifying, by reference to one or more prescribed conditions relating to hours or the sharing of work, the provision of general medical services for which a person is entitled to be remunerated; and
 - (b) specifying the locality in which a person is entitled to provide general medical services;
- “Health Board” has the same meaning as in the National Health Service (Scotland) Act 1978;
- “locality”, in relation to a Health Authority, means the Authority’s area or a particular part of their area; and
- “sole practitioner” means a medical practitioner providing general medical services otherwise than in partnership with one or more other medical practitioners.
- (6) This section does not affect the power to make regulations under section 29.]

Textual Amendments

F14 S. 29B inserted (10.12.1998) by 1997 c. 46, s. 32(1); S.I. 1998/2840, art. 2(3), Sch.

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Marginal Citations

M3 1978 c. 29.

30 Applications to provide general medical services.

- (1) [^{F15}Subject to subsection (1A) below] all applications made [^{F16}by medical practitioners in the prescribed manner to a Family Practitioner Committee for inclusion in a list kept by that Committee of the names of medical practitioners undertaking to provide general medical services for persons in the Committee's locality shall be referred by the Committee] to the Medical Practices Committee and . . . ^{F17} any medical practitioner whose application is granted by that Committee shall [^{F18}subject to the provisions of this Part of this Act relating to disqualification of practitioners] be entitled to the inclusion of his name in the list.

[^{F19}(1A) No medical practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his application for the inclusion of his name in the list kept by any Family Practitioner Committee referred to the Medical Practices Committee unless he satisfies the Family Practitioner Committee that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general medical services in the Committee's locality; and where a Family Practitioner Committee is not so satisfied with respect to any applicant the Family Practitioner Committee shall not refer his application to the Medical Practices Committee.]

- (2) ^{F20}

Textual Amendments

- F15** Words inserted by S.I. 1981/432, art. 3(1)(a)
F16 Words substituted by S.I. 1985/39, art. 7(4)
F17 Words repealed by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 7
F18 Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 1 para. 43(a)
F19 S. 30(1A) inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 4
F20 Ss. 6(1)(2)(6)(7), 30(2), 59, 60, 67–71, 73–76, Sch. 4 para. 1, Sch. 15 paras. 11, 41, 68—70 repealed by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 7

Modifications etc. (not altering text)

- C7** S. 30(1A) modified by S.I. 1987/160, reg. 19(16)(b) (as substituted by S.I. 1985/1053, reg. 3(5))

31 Requirement of suitable experience.

- (1) Where the Secretary of State so prescribes, and after a day so prescribed—
- (a) the Medical Practices Committee shall refuse any application under section 30 above if the medical practitioner is not suitably experienced; and
 - [^{F21}(b) a Family Practitioner Committee shall not arrange under section 29 above with a medical practitioner for him to provide general medical services for persons in the Committee's locality unless the Medical Practices Committee have granted an application by him for the inclusion of his name in the list kept by the Family Practitioner Committee of medical practitioners undertaking to provide general medical services for persons in their locality.]

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- (2) For the purposes of this section a medical practitioner is “suitably experienced” if, but only if, he either—
- (a) has acquired the prescribed medical experience, or
 - (b) is by virtue of regulations made under section 32 below exempt from the need to have acquired that experience, and “medical experience” includes hospital experience in any specialty.

Textual Amendments

F21 S. 31(1)(b) substituted by S.I. 1985/39, art. 7(5)

32 Regulations as to s. 31.

- (1) Regulations may for the purposes of section 31 above provide—
- (a) for prescribing the medical experience needed to satisfy paragraph (a) of section 31(2);
 - (b) as to the documents which an applicant may or must produce as evidence that he is suitably experienced or has acquired medical experience of any particular kind;
 - (c) for requiring an applicant who claims to have acquired the prescribed experience to submit particulars of his experience to a prescribed body, and for requiring that body, if satisfied that he has acquired the prescribed experience, to issue him a certificate (a “certificate of prescribed experience”) to that effect;
 - (d) for enabling an applicant without the prescribed experience who considers that the medical experience which he has acquired is, or ought to be regarded as, equivalent to the prescribed experience to submit particulars of that experience to a prescribed body, and for requiring or enabling that body, if satisfied that the applicant’s medical experience is so equivalent, to issue him a certificate (a “certificate of equivalent experience”) to that effect;
 - (e) for treating an applicant who holds a certificate of equivalent experience as satisfying paragraph (a) of section 31(2);
 - (f) as to the circumstances or conditions in or subject to which a medical practitioner is exempt from the need to have acquired the prescribed experience;
 - (g) for conferring on an applicant who is refused a certificate of prescribed experience or a certificate of equivalent experience a right of appeal to a body constituted by the Secretary of State, and for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right;
 - (h) for anything authorised or required by section 31 to be prescribed or otherwise provided for by regulations.

In this section—

“applicant” means a medical practitioner who has made or proposes to make an application to which paragraph (a) of section 31(1) applies;

“the prescribed experience” means the medical experience for the time being prescribed for the purposes of paragraph (a) of section 31(2).

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- (2) Regulations under this section shall be framed so as to allow the prescribed experience to be acquired without undertaking whole-time employment.
- (3) Any power under this section to make regulations—
 - (a) may be exercised so as to make different provision for different [^{F22}localities] or different periods of time or in relation to different cases or different circumstances;
 - (b) includes power to make such incidental or supplemental provision in the regulations as the Secretary of State considers appropriate.

Textual Amendments

F22 Word substituted by S.I. 1985/39, art. 7(6)

33 Distribution of general medical services.

- [^{F23}(1) The Medical Practices Committee may refuse any applications under section 30 above on the grounds that the number of medical practitioners undertaking to provide general medical services in the locality of the Family Practitioner Committee concerned or in the relevant part of that locality is already adequate.]
- [^{F24}(1A) The Secretary of State may by order specify—
 - (a) the maximum number of medical practitioners with whom, in any year, all the Family Health Services Authorities for localities in England, taken as a whole, may enter into arrangements under section 29 above for the provision of general medical services; and
 - (b) the maximum number of medical practitioners with whom, in any year, all the Family Health Services Authorities for localities in Wales, taken as a whole, may enter into such arrangements.
- (1B) An order under subsection (1A) above may contain such incidental and consequential provisions (including provisions amending this Part of this Act) as appear to the Secretary of State to be appropriate including, in particular, provisions as to the basis on which the Medical Practices Committee are to refuse applications under section 30 above in order to secure that any maximum number specified in the order is not exceeded.]
- (2) [^{F25}Subject to subsection (2A) below] if in the opinion of the Medical Practices Committee additional practitioners are required for any [^{F26}locality or part of a locality], but the number of applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.
- [^{F27}(2A) If, in the opinion of the Medical Practices Committee, a medical practitioner is required for a particular part of the locality of a Family Health Services Authority, then, in such circumstances as may be prescribed,—
 - (a) the Authority (instead of the Committee) shall, in accordance with regulations, select the medical practitioner whose application they wish to be considered by the Committee; and
 - (b) the Committee shall not consider any application from a medical practitioner who is not so selected; and

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(c) any medical practitioner who has made an application but is not so selected may appeal to the Secretary of State on a point of law;

and if the Secretary of State allows an appeal under paragraph (c) above he shall remit the application to the Authority for reconsideration.]

[^{F28}(3) Before selecting any persons under subsection (2) above the Medical Practices Committee shall consult the Family Practitioner Committee concerned, and the Family Practitioner Committee shall, if a Local Medical Committee has been formed for their locality and recognised under section 44 below, consult that Local Medical Committee before expressing their views on the persons to be selected.

(4) Except as provided in subsections (1) to (3) above or as required by section 31 above, the Medical Practices Committee shall not refuse any application under section 30, but

[^{F29}(a) in granting an application shall specify, by reference to one or more prescribed conditions relating to hours or the sharing of work, the provision of general medical services for which the applicant will be entitled to be remunerated; and]

[^{F29}(b) may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the Family Practitioner Committee’s locality as the Medical Practices Committee may specify][^{F30}and an order under subsection (1A) above may make provision as to the extent to which account is to be taken under the order of medical practitioners whose ability to carry out remunerated work is limited by virtue of conditions imposed under paragraph (a) above].

(5) A medical practitioner who has made an application under section 30 which has been refused [^{F31}by the Medical Practices Committee] or has been granted [^{F31}by that Committee] subject to [^{F32}conditions under paragraph (a) or paragraph (b) of subsection (4) above] may appeal to the Secretary of State; [^{F33}on a point of law; and, if the Secretary of State allows such an appeal, he shall remit the application to the Medical Practices Committee for reconsideration].

[^{F33}This subsection does not apply where an application has been refused under paragraph (a) of section 31(1)][^{F33}or under section 8 of the Health and Medicines Act 1988 (persons over retiring age)].

(6) Where the Medical Practices Committee select persons from a number of applicants, the persons selected shall not be included in the list in question during the period for bringing an appeal to the Secretary of State or pending the determination of any such appeal.

(7) ^{F34}

(8) [^{F35}In any case where medical practitioners have to be selected from a number of applicants, the Medical Practices Committee or, where subsection (2A) above applies, the Family Health Services Authority shall]—

(a) have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the [^{F36}locality concerned or part of it] and of any desire expressed by such other practitioners to take any applicant into practice with them;

(b) have special regard to such matters in cases where an applicant is related to any other such practitioner.

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Textual Amendments

- F23** S. 33(1) substituted by S.I. 1985/39, **art. 7(7)(a)**
- F24** S. 33(1A)(1B) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(1)**
- F25** Words inserted (subject to transitional provisions in S.I. 1990/2511, **art. 4(1)**) (E.W.) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(2)**
- F26** Words substituted by S.I. 1985/39, **art. 7(7)(b)**
- F27** S. 33(2A) inserted (subject to transitional provisions in S.I. 1990/2511, **art. 4(1)**) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(2)**
- F28** S. 33(3)(4) substituted by S.I. 1985/39, **art. 7(7)(c)**
- F29** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(3)**
- F30** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(3)**
- F31** Words inserted by S.I. 1981/432, **art. 3(2)**
- F32** Words substituted (subject to transitional provisions in S.I. 1990/2511, **art. 4(2)(3)**) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(4)**
- F33** Words from “on a point of law” to “reconsideration” substituted for the words following “Secretary of State” up to “retiring age” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **S. 23(4)** (the substitution being in force 1.1.1991 by S.I. 1990/1329, **art. 2(7)(c)**) as amended by S.I. 1990/2511, **art. 2(b)**, by virtue of which art. 2(b) section 23(4) is excepted from the coming into force on 1.1.1991 so far as it repeals the second paragraph of s. 33(5) of the 1977 Act) (subject to transitional provisions in S.I. 1990/2511, **art. 4(2)(3)**). New words were added at the end of the second paragraph of s. 33(5) by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 25(1), **Sch. 2 para. 3**
- F34** S. 33(7) repealed (subject to transitional provisions in S.I. 1990/2511, **art. 4(2)**) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 23(5), 66(2), **Sch. 10**
- F35** Words substituted (subject to transitional provisions in S.I. 1990/2511, **art. 4(2)**) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 23(6)**
- F36** Words substituted by S.I. 1985/39, **art. 7(7)(d)**

Modifications etc. (not altering text)

- C8** S. 33(2A) applied by S.I. 1974/160, **reg. 10A** (as substituted by S.I. 1990/2513, **reg. 6**)
- C9** S. 33(2A) extended (1.4.1992) by S.I. 1992/635, **reg. 13(1)**.

34 Regulations for Medical Practices Committee.

Regulations may make provisions for conferring or imposing on the Medical Practices Committee such additional functions in relation to arrangements for the provision of general medical services as may be prescribed; and regulations shall provide—

- [^{F37}(a) for requiring Family Practitioner Committees to make to the Medical Practices Committee, at such times and in such manner as may be prescribed, reports as to—
- (i) the number of medical practitioners required to meet the reasonable needs of their localities and the different parts of those localities;]
 - (ii) the occurrence of any vacancies on the lists of medical practitioners kept by them under this Part of this Act; and
 - (iii) the need for filling such vacancies; and
- (b) for prescribing the procedure for—
- (i) the determination of applications by the Medical Practices Committee;

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- (ii) the making and determination of appeals to the Secretary of State under section 33 above [^{F38}and where such an appeal is allowed, the reconsideration of any application]; and
- [^{F39}(iii) requiring Family Practitioner Committees and applicants to be informed of the decisions of the Medical Practices Committee and the Secretary of State.]
- [^{F40}(2) Regulations under this section may make provision for, and in connection with, the variation of any condition imposed under subsection (4) or subsection (5) of section 33 above, including provision for appeals to the Secretary of State on a point of law]

Textual Amendments

- F37** Words substituted by S.I. 1985/39, art. 7(8)(a)
- F38** Words inserted (subject to transitional provisions in S.I. 1990/2511, art. 4(2)) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 23(7)(a)
- F39** S. 34(b)(iii) substituted by S.I. 1985/39, art. 7(8)(b)
- F40** S. 34(2) added (subject to transitional provisions in S.I. 1990/2511, art 4(2)) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 23(7)(b)

General dental services

35 Arrangements for general dental services.

[^{F41}(1) It is the duty of every Family Practitioner Committee, in accordance with regulations, to make as respects their locality arrangements with dental practitioners under which any person in the locality for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances shall receive such treatment and appliances.

(1A) The services so provided are referred to in this Act as general dental services.]

(2) The remuneration to be paid under such arrangements to a dental practitioner who provides general dental services elsewhere than at a health centre shall not consist wholly or mainly of a fixed salary unless either—

- (a) the remuneration is paid in pursuance of arrangements made under section 56 below, or
- (b) the services are provided in prescribed circumstances and the practitioner consents,

and it shall be the Secretary of State's duty, before he prescribes any circumstances for the purposes of paragraph (b), to consult such organisations as appear to him to be representative of the dental profession.

[^{F42}(3) Where the registration of a dental practitioner in the dentists register is suspended—

- (a) by an order under [^{F43}section 32 of the ^{M4}Dentists Act 1984] (interim suspension); or
- (b) by a direction or [^{F44}an order of the Health Committee under] that Act (health cases),

the suspension shall not terminate any arrangements made with him for the provision of general dental services, but he shall not provide such services in person during the suspension.

Status: Point in time view as at 06/03/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Regulations may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is so suspended.]

Textual Amendments

- F41** S. 34(1)(1A) substituted for s. 34(1) by S.I. 1985/39, **art. 7(9)**
F42 S. 35(3)(4) added by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), **s. 15(a)**
F43 Words substituted by Dentists Act 1984 (c. 24, SIF 83:1), s. 54(1), **Sch. 5 para. 8(a)**
F44 Words substituted by Dentists Act 1984 (c. 24, SIF 83:1), s. 54(1), **Sch. 5 para. 8(b)**

Marginal Citations

- M4** 1984 c. 24(83:1).

36 Regulations as to s. 35.

[^{F45}(1)] Regulations may provide as to the arrangements to be made under section 35 above, and shall include provision—

- (a) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services;
- (b) for conferring a right, subject to [^{F46}[^{F47}subsections (2) and (3)] below and to] the provisions of this Part of this Act relating to the disqualification of practitioners [^{F48}and to section 8 of the Health and Medicines Act 1988 and regulations under that section], on any dental practitioner, who wishes to be included in any such list, to be so included;
- (c) for conferring on any person a right to choose, in accordance with the prescribed procedure, the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen;
- (d) for the removal from the list of dental practitioners undertaking to provide general dental services for persons in any [^{F49}locality] of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general dental services for persons in that [^{F49}locality].

[^{F50}(2) No dental practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his name included in the list kept by any Family Practitioner Committee unless he satisfies the Committee that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general dental services in the Committee's locality.]

[^{F51}(3) Regulations may make the exercise of the right conferred by virtue of paragraph (b) of subsection (1) above subject to any provision made by or under the regulations, and, in such cases as may be prescribed, may confer a right of appeal to a prescribed body in respect of a refusal to include a dental practitioner on such a list as is referred to in paragraph (a) of that subsection.]

Textual Amendments

- F45** S. 36 renumbered s. 36(1) by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), **Sch. 3 para. 5(1)**
F46 Words inserted by S.I. 1981/432, **art. 3(3)(a)**

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- F47** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 24(2)
- F48** Words inserted by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 25(1), Sch. 2 para. 4
- F49** Word substituted by S.I. 1985/39, art. 7(10)
- F50** S. 36(2) added by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 5(2)
- F51** S. 36(3) added by National Health Service and Community Care Act 1990 (c.19, SIF 113:2), s. 24(3)

Modifications etc. (not altering text)

- C10** S. 36 extended by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 17(1)

37 Dental Estimates Board.

[^{F52}(1)] Regulations providing as to the arrangements to be made under section 35 above shall include provision—

- (a) for constituting a Board, to be called the Dental Estimates Board, of whom the chairman and a majority of the members shall be dental practitioners, for the purpose of carrying out such duties as may be prescribed with respect to . . . ^{F53} dental treatment and appliances, and to the remuneration of dental practitioners providing general dental services;
- (b) for providing in relation to that Board for any of the matters for which, in relation to an Area [^{F54}or District] Health Authority, provision is or may be made by or under Part III of Schedule 5 to this Act.

[^{F55}(1A) Regulations may empower the Dental Practice Board—

- (a) to direct a dental practitioner to submit to the Board, in relation to treatment which he has carried out or contemplates carrying out or to a description of such treatment specified in the direction, such estimates and information and such radiographs, models or other items as may be prescribed; and
- (b) to direct a dental practitioner not to carry out treatment, or a description of treatment specified in the direction, without first obtaining approval of an estimate from the Board.

(1B) If regulations include any such provision as is mentioned in subsection (1A)(b) above, regulations shall confer on a dental practitioner in whose case a direction such as is mentioned in that paragraph has been given a right of appeal against the direction to a prescribed person or body, but before making regulations conferring such a right the Secretary of State shall consult such organisations as appear to him to be representative of persons providing general dental services.

(1C) Regulations may be made authorising or requiring the Dental Practice Board to carry on any such additional activity relating to the provision of general dental services as may be prescribed and, without prejudice to the generality of this subsection, to conduct or commission surveys or other research relating to the provision of such services.]

Textual Amendments

- F52** S. 37 renumbered as s. 37(1) by Health and Medicines Act 1988 (c.49, SIF 113:2), s. 12(2)
- F53** Words repealed by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 25(2), Sch. 3
- F54** Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 1 para. 50
- F55** S. 37(1A)—(1C) inserted by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 12(3)

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General ophthalmic services

38 Arrangements for general ophthalmic services.

[^{F56}(1)] [^{F57}It is the duty of every Family Practitioner Committee, in accordance with regulations, to arrange as respects their locality] with medical practitioners having the prescribed qualifications, [^{F58}and ophthalmic opticians for securing the testing][^{F59}by them of the sight—

- (a) of a child;
- (b) of a person whose resources fall to be treated under the regulations as being less than his requirements or as being equal to his requirements; or
- (c) of a person of such other description as may be prescribed.

(2) In this section—

“child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full-time education; and

“qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State, and for the purpose of this definition—

- (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university; and
- (b) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

(3) Regulations under this section may direct how a person’s resources and requirements are to be calculated and, without prejudice to the generality of this subsection, may direct that they shall be calculated—

- (a) by a method set out in the regulations;
- (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications;
- (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament; or
- (d) by reference to the person’s being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.

(4) Descriptions of persons may be prescribed for the purposes of subsection (1) above by reference to any criterion and, without prejudice to the generality of this subsection, by reference to any of the following criteria—

- (a) their age;
- (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
- (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
- (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit; and

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- (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits.
- (5) Regulations which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference is to be construed as a reference to that Act or instrument—
- (a) as it has effect at the time when the regulations are made; or
- (b) both as it has effect at that time and as amended subsequently.
- (6) Regulations may provide that a person—
- (a) whose sight is tested by a person who provides general ophthalmic services; and
- (b) who is shown during the testing or within a prescribed time after it to fall within subsection (1) above,
- shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested; and the testing shall be treated—
- (i) for the purposes of any arrangements under this section;
- (ii) for the purposes of remuneration in respect of the testing; and
- (iii) for any such other purpose as may be prescribed,
- as a testing of sight under this Act.
- (7) Regulations shall define the services for the provision of which arrangements under this section are to be made and the services so defined are in this Act referred to as “general ophthalmic services”.]

Textual Amendments

- F56** The first paragraph of s. 38 renumbered as s. 38(1) by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 13\(1\)](#)
- F57** Words substituted by [S.I. 1985/39, art. 7\(11\)](#)
- F58** Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), [s. 1\(3\)](#)
- F59** [S. 38\(1\)\(a\)–\(7\)](#) and the words “by them of the sight—” substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 13\(1\)](#)

39 Regulations as to s. 38.

Regulations may provide as to the arrangements to be made under section 38 above, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners, [^{F60}and ophthalmic] opticians, respectively, who undertake to provide general ophthalmic services;
- (b) for conferring a right, subject to the provisions of this [^{F61}Part of this] Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, [^{F62}or ophthalmic] optician who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested, or from whom any prescription for the supply of optical appliances is to be obtained . . . ^{F63};

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- (d) for the removal from the list of medical practitioners, [^{F64}or ophthalmic] opticians undertaking to provide general ophthalmic services for persons in any [^{F65}locality] of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general ophthalmic services for persons in that [^{F65}locality].

Textual Amendments

- F60** Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(a\)](#)
- F61** Words inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 1 para. 52](#)
- F62** Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(b\)](#)
- F63** Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), ss. 1(4), 24, [Sch. 8 Pt. I](#)
- F64** Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(c\)](#)
- F65** Word substituted by [S.I. 1985/39](#), [art. 7\(12\)](#)

Modifications etc. (not altering text)

- C11** [S. 39](#) extended by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 17\(1\)](#)

40 Medical practitioners with qualifications prescribed under s. 38.

The power conferred by section 38 above (in relation to general ophthalmic services) to prescribe the qualifications to be possessed by any medical practitioner includes a power—

- (a) to prescribe a requirement that the practitioner shall show to the satisfaction of a committee recognised by the Secretary of State for the purpose that he possesses such qualifications, including qualifications as to experience, as may be mentioned in the regulations; and
- (b) to confer on a person who is dissatisfied with the determination of such a committee, a right of appeal to a committee appointed by the Secretary of State, and to provide for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right.

Pharmaceutical services

41 Arrangements for pharmaceutical services.

[^{F66}It is the duty of every Family Practitioner Committee, in accordance with regulations, to arrange as respects their locality for the [^{F67}provision to persons who are in that locality of]]

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony; . . . ^{F68}

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- [^{F69}(b) proper and sufficient drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision by [^{F70}a health authority][^{F71}or an NHS trust] of dental services; . . . ^{F72}
- (c) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision by him of general dental services.][^{F73}and
- (d) such other services as may be prescribed.]

The services so provided are in this Act referred to as “pharmaceutical services”.

In this section—

“listed” means included in a list for the time being approved by the Secretary for the purposes of this section; and

“the Scottish health service” and “the Northern Ireland health service” mean respectively the health service established in pursuance of section 1 of the ^{M5}National Health Service (Scotland) Act 1947 or any service provided in pursuance of Article 4(a) of the ^{M6}Health and Personal Social Services (Northern Ireland) Order 1972.

Textual Amendments

- F66** Words substituted by [S.I. 1985/39, art. 7\(13\)\(a\)](#)
- F67** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 18\(1\)\(a\)](#)
- F68** Word repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\), Sch. 7](#)
- F69** [S. 41\(b\)\(c\)](#) substituted for [s. 41\(b\)](#) by [Health Services Act 1980 \(c. 53, SIF 113:2\), s. 20\(1\)](#)
- F70** Words substituted by [S.I. 1985/39, art. 7\(13\)\(b\)](#)
- F71** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 18\(1\)\(b\)](#)
- F72** Word repealed by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\)\(2\), Sch. 9 para. 18\(1\)\(b\), Sch. 10](#)
- F73** [S. 41\(d\)](#) and the word “and” directly preceding it inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 18\(c\)](#)

Marginal Citations

- M5** 1947 c. 27.
- M6** 1972 S.I. 1972/1265 (N.I. 14).

VALID FROM 15/08/1997

[^{F74}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.

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(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

“Drug Tariff” means the Drug Tariff published under regulation 18 of the ^{M7}National Health Service (Pharmaceutical Services) Regulations 1992 or under any corresponding provision replacing, or otherwise derived from, that regulation.]

Textual Amendments

F74 S. 41A inserted (15.8.1997) by 1997 c. 46, s. 27(1); S.I. 1997/1780, art. 2, Sch.

Marginal Citations

M7 S.I. 1992/662.

VALID FROM 15/08/1997

^{F75}**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.
- (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

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- (b) published by any body in accordance with regulations made under section 27(2)(a) of the ^{M8}National Health Service (Scotland) Act 1978 or Article 63(2A)(a) of the ^{M9}Health and Personal Social Services (Northern Ireland) Order 1972.]

Textual Amendments

F75 S. 41B inserted (15.8.1997) by 1997 c. 46, s. 28(1); S.I. 1997/1780, art. 2, Sch.

Marginal Citations

M8 1978 c. 29.

M9 S.I. 1972/1265 (N.I.14).

[^{F76}42 Regulations as to pharmaceutical services.

- (1) Regulations shall provide for securing that arrangements made by a Family Practitioner Committee under section 41 above will enable persons in the Committee's locality for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made.
- (2) The regulations shall include provision—
- (a) for the preparation and publication by a Committee of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the Committee's locality;
 - (b) that an application to a Committee for inclusion in such a list shall be made in the prescribed manner and shall state—
 - (i) the services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and
 - (ii) the premises from which he will undertake to provide those services;
 - (c) that, except in prescribed cases—
 - (i) an application for inclusion in such a list by a person not already included; and
 - (ii) an application by a person already included in such a list for inclusion also in respect of services or premises other than those already listed in relation to him,

shall be granted only if the Committee is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the services, or some of the services, specified in the application; and

- (d) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—
 - (i) has never provided from those premises; or
 - (ii) has ceased to provide from them, the services, or any of the services, which he is listed as undertaken to provide from them.

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- (3) The regulations may include provision—
- (a) that an application to a Committee may be granted in respect of some only of the services specified in it;
 - (b) that an application to a Committee relating to services of a prescribed description shall be granted only if it appears to the Committee that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed;
 - ^{F77}(ba) [that an application to a Committee by a person who qualified to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma) shall not be granted unless the applicant satisfies the Committee that he has the knowledge of English which, in the interests of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the Committee’s locality.]
 - (c) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;
 - (d) that, where the premises from which an application states that the applicant will undertake to provide services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by [^{F78}reference to prescribed criteria by the Family Health Services Authority in whose locality those premises are situated; and]
 - (e) that [^{F79}that Family Health Services Authority] may give its approval subject to conditions.
- (4) The regulations shall include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of this section.
- (5) The regulations shall be so framed as to preclude—
- (a) a person included in a list published under subsection (2)(a) above ;and (b) an employee of such a person; from taking part in the decision whether an application such as is mentioned in subsection (2)(c) above should be granted or an appeal against such a decision brought by virtue of subsection (4) above should be allowed.]

Textual Amendments

F76 S. 42 substituted by [National Health Service \(Amendment\) Act 1986 \(c. 66, SIF 113:2\), s. 3](#)

F77 S. 42(3)(ba) inserted by [S.I. 1987/2202, art. 4](#)

F78 Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 12\(3\)\(a\)](#)

F79 Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 12\(3\)\(b\)](#)

Modifications etc. (not altering text)

C12 S. 42 extended by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\), s. 17\(1\)](#)

43 Persons authorised to provide pharmaceutical services.

- (1) No arrangements shall be made by [^{F80}a Family Practitioner Committee] (except as may be provided by [^{F81}or under] regulations) with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services

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to any person to whom he is rendering general medical services or general dental services.

- (2) No arrangements for the dispensing of medicines shall be made (except as may be provided by [^{F81}or under] regulations) with persons other than persons who are registered pharmacists, or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the ^{M10}Medicines Act 1968 and who undertake that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist.

- [^{F82}(3) No arrangements for the provision of pharmaceutical services falling within section 41(d) above shall be made with persons other than those who are registered pharmacists or are of a prescribed description.]

Textual Amendments

F80 Words substituted by S.I. 1985/39, art. 7(15)

F81 Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), s. 21(2)

F82 S. 43(3) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 18(2)

Marginal Citations

M10 1968 c. 67(84).

VALID FROM 22/11/2001

[^{F83}43ZA Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists

- (1) The Secretary of State may by regulations provide—
- (a) that if a person is to be included in a list referred to in subsection (3), he is to be subject, while he remains included in the list, to conditions determined by the Health Authority,
 - (b) for the Health Authority to vary that person's terms of service for the purpose of or in connection with the imposition of any such conditions,
 - (c) for the Health Authority to vary the conditions or impose different ones,
 - (d) for the consequences of failing to comply with a condition (including removal from the list), and
 - (e) for the review by the Health Authority of any decision made by virtue of the regulations.
- (2) The imposition of conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services in question, or
 - (b) preventing any acts or omissions within section 49F(3)(a) below.
- (3) The lists in question are—
- (a) a list of persons undertaking to provide general medical services,
 - (b) a list of persons undertaking to provide general dental services,
 - (c) a list of persons undertaking to provide general ophthalmic services,
 - (d) a list of persons undertaking to provide pharmaceutical services.

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- (4) If regulations provide for a practitioner's removal from the list for breach of condition—
- (a) the regulations may provide that he may not withdraw from the list while the Health Authority are investigating whether there are grounds for exercising their power to remove him, or after the Health Authority have decided to remove him but before they have given effect to that decision; and
 - (b) the regulations must include provision—
 - (i) requiring the practitioner to be given notice of any allegation against him,
 - (ii) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his removal from the list, and
 - (iii) requiring him to be given notice of the Health Authority's decision and the reasons for it and of his right of appeal under subsection (5).
- (5) If regulations provide as mentioned in subsection (1), they must also provide for an appeal by the person in question to the FHSAA against the Health Authority's decision—
- (a) to impose conditions, or any particular condition,
 - (b) to vary a condition,
 - (c) to vary his terms of service,
 - (d) on any review of an earlier such decision of theirs,
 - (e) to remove him from the list for breach of condition,
- and the appeal shall be by way of redetermination of the Health Authority's decision.
- (6) The regulations may provide for any such decision not to have effect until the determination by the FHSAA of any appeal against it, and must so provide in relation to a decision referred to in subsection (5)(e).
- (7) Regulations under this section may provide for the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about persons whose inclusion in the lists referred to in subsection (3) is subject to conditions imposed under this section, and about the removal of such persons from such lists for breach of condition.]

Textual Amendments

F83 S. 43ZA inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 21, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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VALID FROM 01/04/2000

[^{F84} Indemnity cover]

Textual Amendments

F84 S. 43C and cross-heading inserted (1.4.2000) by 1999 c. 8, ss. 9(1); S.I. 1999/2793, art. 2(3)(b); S.I. 2000/1041, art. 2(a)

^{F85}**43C Indemnity cover.**

- (1) Regulations may make provision for the purpose of securing that, in prescribed circumstances, prescribed Part II practitioners hold approved indemnity cover.
- (2) The regulations may, in particular, make provision as to the consequences of a failure to hold approved indemnity cover, including provision—
 - (a) for securing that a person is not to be added to any list unless he holds approved indemnity cover;
 - (b) for the removal from a list prepared by a Health Authority of a Part II practitioner who does not within a prescribed period after the making of a request by the Health Authority in the prescribed manner satisfy the Health Authority that he holds approved indemnity cover.
- (3) For the purposes of this section—

“approved body” means a person or persons approved in relation to indemnity cover of any description, after such consultation as may be prescribed, by the Secretary of State or by such other person as may be prescribed;

“approved indemnity cover” means indemnity cover made—

 - (a) on prescribed terms; and
 - (b) with an approved body;

“indemnity cover”, in relation to a Part II practitioner (or person who proposes to provide Part II services), means a contract of insurance or other arrangement made for the purpose of indemnifying him and any person prescribed in relation to him to any prescribed extent against any liability which—

 - (a) arises out of the provision of Part II services in accordance with arrangements made by him with a Health Authority under this Part of this Act; and
 - (b) is incurred by him or any such person in respect of the death or personal injury of a person;

“list” has the same meaning as in section 46 below;

“Part II practitioner” means a person whose name is on a list;

“Part II services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services;

“personal injury” means any disease or impairment of a person’s physical or mental condition and includes the prolongation of any disease or such impairment;

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and a person holds approved indemnity cover if he has entered into a contract or arrangement which constitutes approved indemnity cover.

- (4) The regulations may provide that a person of any description who has entered into a contract or arrangement which is—
- (a) in a form identified in accordance with the regulations in relation to persons of that description; and
 - (b) made with a person or persons so identified,
- is to be treated as holding approved indemnity cover for the purposes of the regulations.

Textual Amendments

F85 S. 43C and cross-heading inserted (1.4.2000) by 1999 c. 8, ss. 9(1); S.I. 1999/2793, art. 2(3)(b); S.I. 2000/1041, art. 2(a)

VALID FROM 22/11/2001

^{F86}43D Supplementary lists

- (1) The Secretary of State may make regulations providing for the preparation and publication by each Health Authority of one or more lists of persons approved by the Health Authority for the purpose of assisting in the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services.
- (2) Such a list is referred to in this section as a “supplementary list”.
- (3) The regulations may, in particular, include provision as to—
 - (a) the Health Authority to which an application for inclusion in a supplementary list is to be made,
 - (b) the procedure for applying for inclusion, including any information to be supplied to the Health Authority (whether by the applicant or by arrangement with him),
 - (c) grounds on which the Health Authority may, or must, refuse a person’s application for inclusion in a supplementary list (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
 - (d) requirements with which a person included in a supplementary list must comply (including the declaration of financial interests and of gifts and other benefits),
 - (e) grounds on which a Health Authority may, or must, suspend or remove a person from a supplementary list, the procedure for doing so, and the consequences of doing so,
 - (f) payments to or in respect of persons who are suspended from a supplementary list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),

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- (g) the supply to the Health Authority by an applicant for inclusion in a supplementary list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
 - (h) circumstances in which a person included in a supplementary list may not withdraw from it,
 - (i) criteria to be applied in making decisions under the regulations,
 - (j) appeals against decisions of Health Authorities under the regulations,
 - (k) the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a supplementary list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person's inclusion in a supplementary list to be subject to conditions determined by the Health Authority,
 - (b) the Health Authority to vary the conditions or impose different ones,
 - (c) the consequences of failing to comply with a condition (including removal from the list), and
 - (d) the review by the Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the supplementary list relates; or
 - (b) preventing any acts or omissions of the type described in section 49F(3)(a) below.
- (6) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N below.
- (7) If the regulations provide under subsection (3)(e) or (4) that a Health Authority may suspend or remove a person from a supplementary list, they must include provision—
- (a) requiring him to be given notice of any allegation against him;
 - (b) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his suspension or removal; and
 - (c) requiring him to be given notice of the Health Authority's decision and the reasons for it and of any right of appeal under subsection (8) or (9).
- (8) If the regulations provide under subsection (3)(c) or (e) that a Health Authority may refuse a person's application for inclusion in a supplementary list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the FHSAA against the Health Authority's decision.
- (9) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the Health Authority's decision—
- (a) to impose conditions, or any particular condition,
 - (b) to vary a condition,
 - (c) to remove him from the supplementary list for breach of condition,

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(d) on any review of an earlier such decision of theirs.

(10) Regulations may require a person (“A”) included in—

- (a) a medical list,
- (b) a list referred to in section 36(1)(a),
- (c) a list referred to in section 39(1)(a),
- (d) a list referred to in section 42(2)(a), or
- (e) a list referred to in section 43(2A),

not to employ or engage a person (“B”) to assist him in the provision of the relevant service unless B is included in a list referred to in paragraphs (a) to (e), a supplementary list, a services list referred to in section 28DA above or section 8ZA of the National Health Service (Primary Care) Act 1997 (c. 46) or a list corresponding to a services list prepared by a Health Authority by virtue of regulations made under section 41 of the Health and Social Care Act 2001 (or, in any of those cases, such a list of a prescribed description).

(11) If regulations do so require, they—

- (a) need not require both A and B to be included in lists prepared by the same Health Authority, but
- (b) may, in particular, require that both A and B be included in lists prepared by Health Authorities in England, or in lists prepared by Health Authorities in Wales.]

Textual Amendments

F86 S. 43D inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 24, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1) Sch. Pt. 1

Local representative committees

44 Recognition of local representative committees.

(1) Where the Secretary of State is satisfied that a committee formed for the [^{F87}locality of any Family Practitioner Committee] is representative —

- (a) of the medical practitioners providing general medical services or general ophthalmic services in that [^{F88}locality], or
- (b) of the dental practitioners providing general dental services in that [^{F88}locality], or
- (c) of the ophthalmic opticians . . . ^{F89} providing general ophthalmic services in that [^{F88}locality], or
- (d) of the persons providing pharmaceutical services in that [^{F88}locality],

he may recognise that committee; and any committee so recognised shall be called the Local Medical Committee, the Local Dental Committee, the Local Optical Committee or the Local Pharmaceutical Committee, as the case may be, for the [^{F88}locality] concerned.

(2) Any such committee may with the Secretary of State’s approval delegate any of their functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.

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Textual Amendments

F87 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 5(4), [Sch. 3 para. 6\(a\)](#)

F88 Word substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 5(4), [Sch. 3 para. 6\(b\)](#)

F89 Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, [Sch. 8 Pt. I](#)

Modifications etc. (not altering text)

C13 [S. 44\(1\)](#) amended by [S.I. 1990/2511](#), [art. 5\(1\)](#)

45 Functions of local representative committees.

- (1) The Family Practitioner Committee for [^{F90}a locality] in respect of which committees are recognised under section 44 above shall, in exercising their functions under this Part of this Act, consult with those committees on such occasions and to such extent as may be prescribed; and those committees shall exercise such other functions as may be prescribed.
- (2) The Family Practitioner Committee may, on the request of any committee recognised under section 44 for their [^{F91}locality], allot to that committee such sums for defraying the committee's administrative expenses (including travelling and subsistence allowances payable to its members) as may be determined by the Family Practitioner Committee . . . ^{F92}
- (3) Any sums so allotted shall be out of the moneys available to the Family Practitioner Committee for the remuneration of persons of whom the committee so recognised is representative and who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services, as the case may be, under this Part of this Act.

The amount of any such sums shall be deducted from the remuneration of those persons in such manner as may be determined by the Family Practitioner Committee . . . ^{F92}

Textual Amendments

F90 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 5(4), [Sch. 3 para. 7\(a\)](#)

F91 Word substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 5(4), [Sch. 3 para. 7\(b\)\(i\)](#)

F92 Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), ss. 5(4), 24, [Sch. 3 para. 7\(b\)\(ii\)](#), [Sch. 8 Pt. I](#)

Provisions as to disqualification of practitioners

46 Disqualification of practitioners.

- (1) There shall be a tribunal (in this section and sections 47 to 49 below referred to as “the Tribunal”) which shall be constituted in accordance with Schedule 9 to this Act to inquire into cases where representations are made in the prescribed manner to the Tribunal by [^{F93}a Family Practitioner Committee] or any other person that the continued inclusion of a person's name in a list prepared under this Part of this Act—
 - (a) of medical practitioners undertaking to provide general medical services,

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- (b) of medical practitioners undertaking to provide general ophthalmic services,
 - (c) of dental practitioners undertaking to provide general dental services,
 - (d) of ophthalmic opticians undertaking to provide general ophthalmic services,
 - (e)^{F94}
 - (f) of persons undertaking to provide pharmaceutical services,
- would be prejudicial to the efficiency of the services in question.

The supplementary provisions contained in Schedule 9 apply in relation to the Tribunal.

- (2) The Tribunal, on receiving representations from [^{F95}a family Practitioner Committee] shall, and in any other case may, inquire into the case, and, if they are of opinion that the continued inclusion of that person's name in any list to which the representations relate would be prejudicial to the efficiency of those services—
 - (a) shall direct that his name be removed from that list; and
 - (b) may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other [^{F96}Family Practitioner Committee] under this Part.
- (3) An appeal shall lie to the Secretary of State from any direction of the Tribunal under subsection (2) above, and the Secretary of State may confirm or revoke that direction.
- (4) Where the Tribunal direct that the name of any person be removed from or not included in any list or lists the [^{F97}Family Practitioner Committee or Committees] concerned shall—
 - (a) if no appeal is brought, at the end of the period for bringing an appeal, or
 - (b) if an appeal is brought and the decision of the Tribunal is confirmed by the Secretary of State, on receiving notice of the Secretary of State's decision, remove the name of the person concerned from the list or lists in question.

Textual Amendments

F93 Words substituted by S.I. 1985/39, art. 7(16)(a)

F94 S. 46(1)(e) repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, Sch. 8 Pt. I

F95 Words substituted by S.I. 1985/39, art. 7(16)(b)(i)

F96 Words substituted by S.I. 1985/39, art. 7(16)(b)(ii)

F97 Words substituted by S.I. 1985/39, art. 7(16)(c)

47 Removal of disqualification.

- (1) Any person whose name has been removed by a direction under section 46 above from any list or lists shall be disqualified for inclusion in any list to which that direction relates until the Tribunal or the Secretary of State direct under this section to the contrary.
- (2) For the purpose of deciding whether or not to issue a direction under this section (or under paragraph 8 of Schedule 14 to this Act), the Tribunal or the Secretary of State, as the case may be, may hold an inquiry.

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48 Disqualification provisions in Scotland or Northern Ireland.

Where—

- (a) under any provisions in force in Scotland or Northern Ireland corresponding to the provisions of this Part of this Act a person is for the time being disqualified for inclusion in all lists prepared under those provisions of persons undertaking to provide services of one or more of the kinds specified in section 46(1) above, then
- (b) that person shall, so long as that disqualification is in force, be disqualified for inclusion in a list prepared under this Part of persons undertaking to provide services of those kinds, and the name of that person shall be removed from every such list in which his name is included.

49 Regulations as to ss. 46 to 48.

Regulations shall provide—

- (a) for prescribing the procedure for the holding of inquiries by the Tribunal or the Secretary of State under sections 46 to 48 above, and for the making and determining of appeals to the Secretary of State under that procedure, and, in particular for securing that any person who is the subject of such an inquiry shall 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, in the case of an inquiry by, or appeal to, the Secretary of State before a person appointed by the Secretary of State, and
 - (ii) of being heard by the Tribunal or the person so appointed and of calling witnesses and producing other evidence on his behalf,

and that the hearing, whether by the Tribunal or the person so appointed shall be in public if the person who is the subject of the inquiry so requests;

- (b) for conferring on the Tribunal and on any person so appointed such powers as the Secretary of State considers necessary, and for that purpose to apply, with any necessary modifications, any of the provisions of section 250 of the ^{M11}Local Government Act 1972; and
- (c) for the publication of the decisions of the Tribunal and the Secretary of State under this section and of the imposition and removal of any disqualifications imposed under section 48 above.

Marginal Citations

M11 1972 c. 70(81:1).

[^{F98}49A Applications for interim suspension.

- (1) A Health Authority who have made representations under section 46 above may, at any time before the case is disposed of by the Tribunal, apply to the Tribunal for a direction to be made under subsection (2) below in relation to the person to whom the case relates.

[A Health Authority may, if they have requested a review of a conditional ^{F99}(1A) disqualification on the ground mentioned in section 47(3)(b) or (c) above, at any time

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before the review is concluded apply to the Tribunal for a direction to be made under subsection (2) below in relation to the person to whom the review relates.]

- (2) If, on an application under this section, the Tribunal are satisfied that [^{F100}either of the conditions for doing so is satisfied], they shall direct that subsection (3) below shall apply to the person concerned as respects services of the kind to which the case in question [^{F101}or the case to which the review in question,] relates.

[The conditions for giving such a direction are—

- ^{F102}(2A) (a) that it is necessary to do so in order to protect persons who are, or may be, provided with services under this Part of this Act to which the case in question, or the case to which the review in question, relates,
- (b) in, or in the case of a review relating to, a fraud case, that unless they do so there is a significant risk that—
- (i) an act or omission within section 46(7)(a) above will occur, or
- (ii) the investigation of the case or the review will be prejudiced.]

- (3) A person to whom this subsection applies shall—

- (a) be deemed to have been removed from any relevant list in which his name is included,
- (b) be disqualified for inclusion in any relevant list in which his name is not included, and
- (c) be deemed to be a person in relation to whom there is in force a declaration [^{F103}of unfitness in relation to] the provision of services of the relevant kind.

- (4) A direction under subsection (2) above shall cease to have effect on the Tribunal's disposing of the case [^{F104}or review] in connection with which it is made.

[In subsection (2) above, the reference to patients is to persons to whom services of ^{F105}(5) the kind to which the case in question relates are, or may be, provided under this Part of this Act.]

- (6) In the application of subsection (3) above to any person—

- (a) “relevant list” means a list [^{F106}prepared under this Part of this Act] of persons undertaking to provide services of the kind to which the direction applying the subsection to him relates, and
- (b) “services of the relevant kind” means services of the kind to which that direction relates.]

Textual Amendments

F98 Ss. 49A-49E inserted (E.W.) (21.12.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 31, s. 2(1) (with s. 14(5)); S.I. 1995/3090, art. 2, Sch. (subject to art. 3); S.I. 1996/552, art. 2

F99 S. 49A(1A) inserted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(a)

F100 Words in s. 49A(2) substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(b)

F101 Words in s. 49A(2) inserted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(b)

F102 S. 49A(2A) inserted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(c)

F103 Words in s. 49A(3)(c) substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(d)

F104 Words in s. 49A(4) substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 20(e)

F105 S. 49A(5) repealed (*prosp.*) by 1999 c. 8, ss. 65, 67(1), Sch. 4 para. 20(f), Sch. 5

F106 Words in s. 49A(6)(a) repealed (*prosp.*) by 1999 c. 8, ss. 65, 67(1), Sch. 4 para. 20(g), Sch. 5

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^{F107} F107F108 **49B** Suspension pending appeal.

- (1) Where, on disposing of a case under section 46B above, the Tribunal make a national disqualification, they may, if they consider that either of the conditions mentioned in section 49A(2A) above is satisfied, direct that section 49A(3) above shall apply or, if a direction has been given under section 49A(2) above, shall continue to apply to him as respects services of the kind to which the disqualification relates.]]
- (2) A direction under subsection (1) above shall cease to have effect—
- where no appeal against the ^{F109}national disqualification] is brought, at the end of the period for bringing an appeal, and
 - where an appeal against ^{F109}the disqualification] is brought, when the appeal process has been exhausted.
- (3) Where the power conferred by subsection (1) above is exercisable by virtue of a ^{F110}disqualification which is not coupled with a declaration of unfitness], section 49(A)(3) above shall have effect, in relation to the exercise of that power, with the omission of paragraph (c).
- ^{F111}(4) In subsection (1) above, the reference to patients is to persons to whom services of the kind to which the direction under section 46(2)(b) above relates are, or may be, provided under this Part of this Act.]

Textual Amendments

F107 S. 49B(1) and preceding sidenote substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), **Sch. 4 para. 21(a)**

F108 Ss. 49A–49E inserted (E.W.) (21.12.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 31, s. 2(1) (with s. 14(5)); S.I. 1995/3090, art. 2, **Sch.** (subject to art. 3); S.I. 1996/552, art. 2

F109 Words in s. 49B(2) substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), **Sch. 4 para. 21(b)**

F110 Words in s. 49B(3) substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), **Sch. 4 para. 21(c)**

F111 S. 49B(4) repealed (*prosp.*) by 1999 c. 8, ss. 65, 67(1), Sch. 4 para. 21(d), **Sch. 5**

VALID FROM 21/12/1995

^{F112}49C Sections 49A and 49B: procedure etc.

- (1) Before making a direction under section 49A(2) or 49B(1) above in relation to any person, the Tribunal shall give him an opportunity—
- to appear before them, either in person or by counsel or solicitor or such other representative as may be prescribed, and
 - to be heard and to call witnesses and produce other evidence.
- (2) Regulations may—
- make provision for, or for the determination of, procedure in relation to determining applications under section 49A above or the exercise of the power conferred by section 49B(1) above, and
 - provide for the functions of the Tribunal under section 49A or 49B above to be carried out, or to be carried out in prescribed circumstances, by the chairman or a deputy chairman of the Tribunal.]

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Textual Amendments

F112 Ss. 49A-49E inserted (E.W.) (21.12.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 31, s. 2(1) (with s. 14(5)); S.I. 1995/3090, art. 2, Sch. (subject to art. 3); S.I. 1996/552, art. 2

[^{F113}49D Suspension provisions in Scotland or Northern Ireland.

- (1) This section applies where, under any provisions in force in Scotland or Northern Ireland corresponding to section 49A or 49B above, a person (“the practitioner”) is disqualified for inclusion in all lists prepared under the provisions in force there corresponding to the provisions of this Part of this Act of persons undertaking to provide services of one or more of the kinds specified in section [^{F114}46(8)] above, other than those in which his name is included.
- (2) The practitioner shall, while he is so disqualified—
 - (a) be disqualified for inclusion in any list prepared under this Part of this Act of persons undertaking to provide services of the same kinds (“relevant list”) in which his name is not included, and
 - (b) be deemed to have been removed from any relevant list in which his name is included.

Textual Amendments

F113 Ss. 49A-49E inserted (E.W.) (21.12.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 31, s. 2(1) (with s. 14(5)); S.I. 1995/3090, art. 2, Sch. (subject to art. 3); S.I. 1996/552, art. 2

F114 Words in s. 49D substituted (*prosp.*) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 22

VALID FROM 21/12/1995

[^{F115}49E Payments in consequence of suspension.

- (1) Regulations may provide for the making to persons to whom section 49A(3) or 49D(2) above applies of payments in consequence of the application of that provision.
- (2) Regulations under subsection (1) above may provide for the determination by the Secretary of State in a prescribed manner of anything for which provision may be made by regulations under that subsection.]

Textual Amendments

F115 Ss. 49A-49E inserted (E.W.) (21.12.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 31, s. 2(1) (with s. 14(5)); S.I. 1995/3090, art. 2, Sch. (subject to art. 3); S.I. 1996/552, art. 2

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VALID FROM 22/11/2001

[^{F116}49F Disqualification of practitioners

- (1) If it appears to a Health Authority that any of the conditions set out in subsections (2) to (4) is established in relation to a person included in any of the following prepared by them—
 - (a) a list of medical practitioners undertaking to provide general medical services,
 - (b) a list of medical practitioners undertaking to provide general ophthalmic services,
 - (c) a list of dental practitioners and dental corporations undertaking to provide general dental services,
 - (d) a list of ophthalmic opticians undertaking to provide general ophthalmic services, or
 - (e) a list of persons undertaking to provide pharmaceutical services,(such a person being referred to in this group of sections as a “practitioner”), they may (or, in cases falling within subsection (6), must) decide to remove him from that list.
- (2) The first condition is that the continued inclusion of the person concerned in the list would be prejudicial to the efficiency of the services which those included in the list undertake to provide (and such a case is referred to in this group of sections as an “efficiency case”).
- (3) The second condition is that the person concerned—
 - (a) has (whether on his own or together with another) by an act or omission caused, or risked causing, detriment to any health scheme by securing or trying to secure for himself or another any financial or other benefit, and
 - (b) knew that he or (as the case may be) the other was not entitled to the benefit,(and such a case is referred to in this group of sections as a “fraud case”).
- (4) The third condition is that the person concerned is unsuitable to be included in the list (and such a case is referred to in this group of sections as an “unsuitability case”).
- (5) “This group of sections” means this section and sections 49G to 49R below.
- (6) In unsuitability cases, the Health Authority must remove the practitioner from the list in prescribed circumstances.
- (7) The Health Authority must state which condition (or conditions) they are relying on when removing a practitioner from a list.
- (8) In subsection (3), “health scheme” means—
 - (a) any of the health services under section 1(1) above or any corresponding enactment extending to Scotland or Northern Ireland, and
 - (b) any prescribed scheme,and regulations may prescribe any scheme for the purposes of this subsection which appears to the Secretary of State to be a health or medical scheme paid for out of public funds.

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- (9) Detriment to a health scheme includes detriment to any patient of, or person working in, that scheme or any person liable to pay charges for services provided under that scheme.]

Textual Amendments

F116 S. 49F inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), Sch. 1 Pt. II; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

Modifications etc. (not altering text)

C14 S. 49F(8): definition extended (W.) (26.8.2002) by National Health Service (General Ophthalmic Services) Regulations 1986 (S.I. 1986/975), reg. 9A (as inserted (26.8.2002) by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002 (S.I. 2002/1883), reg. 6)

VALID FROM 14/12/2001

[^{F117}49G Contingent removal

- (1) In an efficiency case or a fraud case, the Health Authority may, instead of deciding to remove a practitioner from their list, decide to remove him contingently.
- (2) If they so decide, they must impose such conditions as they may decide on his inclusion in the list with a view to—
 - (a) removing any prejudice to the efficiency of the services in question (in an efficiency case), or
 - (b) preventing further acts or omissions within section 49F(3)(a) above (in a fraud case).
- (3) If the Health Authority determine that the practitioner has failed to comply with a condition, they may decide to—
 - (a) vary the conditions, or impose different conditions, or
 - (b) remove him from their list.
- (4) The Health Authority may decide to vary the terms of service of the person concerned for the purpose of or in connection with the imposition of any conditions by virtue of this section.]

Textual Amendments

F117 S. 49G inserted (14.12.2001 for E. for all purposes except those relating to the provision of pharmaceutical services under the 1977 Act and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(3), Sch. 1 Pt. III; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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VALID FROM 14/12/2001

[^{F118}49H Fraud and unsuitability cases: supplementary

- (1) Where the practitioner is a body corporate, the body corporate is to be treated for the purposes of this group of sections as meeting the second or third condition referred to in section 49F(3) and (4) above—
 - (a) in the case of an ophthalmic optician not referred to in paragraph (b) or a dental corporation, if any director meets that condition (whether or not he first did so when he was a director), and
 - (b) in the case of a body corporate carrying on a retail pharmacy business or an ophthalmic optician which is a limited liability partnership, if any one of the body of persons controlling the body meets that condition (whether or not he first did so when he was such a person).
- (2) A practitioner is to be treated for the purposes of this group of sections as meeting the condition referred to in section 49F(3) above if—
 - (a) another person, because of an act or omission of his occurring in the course of providing any services mentioned in section 49F(1) above on the practitioner's behalf, meets that condition; and
 - (b) the practitioner failed to take all such steps as were reasonable to prevent acts or omissions within section 49F(3)(a) above occurring in the course of the provision of those services on his behalf.]

Textual Amendments

F118 S. 49H inserted (14.12.2001 for E. for all purposes except those relating to the provision of pharmaceutical services under the 1977 Act and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(3), Sch. 1 Pt. III; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

VALID FROM 22/11/2001

[^{F119}49I Suspension

- (1) If the Health Authority are satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, they may suspend a practitioner from their list—
 - (a) while they decide whether or not to exercise their powers under section 49F or 49G (other than in circumstances falling within paragraph (b)), or
 - (b) while they wait for a decision affecting the practitioner of a court or of a body which regulates—
 - (i) the practitioner's profession,
 - (ii) the profession of a person providing any of the services mentioned in section 49F(1) on the practitioner's behalf, or
 - (iii) if the practitioner is a body corporate, the profession of one of its directors or, as the case may be, one of the body of persons controlling it or (if it is a limited liability partnership) one of its members,

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or one of that regulatory body's committees.

- (2) The references in subsection (1)(b) to a court or regulatory body are to a court or such a body anywhere in the world.
- (3) In a case falling within subsection (1)(a), the Health Authority must specify how long the period of suspension is to be.
- (4) In a case falling within subsection (1)(b), the Health Authority may specify that the practitioner shall remain suspended after the decision referred to there for an additional period which the Health Authority must specify.
- (5) In either case—
 - (a) before that period expires they may extend, or further extend, the suspension for a further specified period, or
 - (b) if that period has expired, they may impose a further suspension, for a period which they must specify.
- (6) The period of suspension (in a subsection (1)(a) case) or the additional period (in a subsection (1)(b) case), including in both cases the period of any further suspension imposed under subsection (5)(b), may not exceed six months in aggregate, except—
 - (a) in prescribed circumstances, when it may not extend beyond any prescribed event (which may be the expiry of a prescribed period),
 - (b) if, on the application of the Health Authority, the FHSAA orders accordingly before the expiry of the period of suspension, or
 - (c) if the Health Authority have applied under paragraph (b) before the expiry of the period of suspension, but the FHSAA has not made an order by the time it expires, in which case it continues until the FHSAA has made an order.
- (7) If the FHSAA does so order, it shall specify—
 - (a) the date on which the period of suspension is to end, or
 - (b) an event beyond which it is not to continue.
- (8) The FHSAA may, on the application of the Health Authority, make a further order (complying with subsection (7)) at any time while the period of suspension pursuant to the earlier order is still continuing.
- (9) The Secretary of State may make regulations providing for payments to practitioners who are suspended.
- (10) Those regulations may include provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State.]

Textual Amendments

F119 S. 49I inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and 1.7.2002 for W.) by 2001 c. 15, **ss. 25, 70(2)** (with **ss. 64(9), 65(4)**); S.I. 2001/3738, art. 2(2), **Sch. 1 Pt. II**; S.I. 2002/1475, art. 2(1), **Sch. Pt. 1**

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VALID FROM 14/12/2001

[^{F120}49J Suspension pending appeal

- (1) This section applies if the Health Authority decide to remove a practitioner from a list under section 49F.
- (2) In such a case they may also decide to suspend the practitioner from the list pending any appeal by him, if they are satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest.
- (3) If they do suspend the practitioner under this section, the suspension has effect from the date when the Health Authority gave him notice of the suspension.
- (4) The suspension has effect until its revocation under subsection (5) or (6) or, if later, until the expiry of the period of 28 days referred to in section 49M(1) below, or, if the practitioner appeals under section 49M, until the FHSAA has disposed of the appeal.
- (5) The Health Authority may revoke a suspension imposed under this section.
- (6) If the practitioner appeals under section 49M against the Health Authority's decision to remove him from the list, the FHSAA may also revoke a suspension imposed on him under this section.
- (7) Subsections (9) and (10) of section 49I above apply for the purposes of this section as they apply for the purposes of that.]

Textual Amendments

F120 S. 49J inserted (14.12.2001 for E. for all purposes except those relating to the provision of pharmaceutical services under the 1977 Act and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(3), Sch. 1 Pt. III; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

VALID FROM 14/12/2001

[^{F121}49K Effect of suspension

While a practitioner is suspended (whether under section 49I or under section 49J above) he is to be treated as not being included in the list from which he has been suspended even though his name appears in it.]

Textual Amendments

F121 S. 49K inserted (14.12.2001 for E. for all purposes except those relating to the provision of pharmaceutical services under the 1977 Act and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(3), Sch. 1 Pt. III; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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VALID FROM 22/11/2001

[^{F122}49L Review of decisions

- (1) The Health Authority may, and (except in prescribed cases) if requested in writing to do so by the practitioner must, review a contingent removal or a suspension (other than a contingent removal or a suspension imposed by, or a suspension continuing pursuant to, an order of the FHSAA, or a suspension imposed under section 49J above).
- (2) The practitioner may not request a review before the expiry of the period of—
 - (a) three months beginning with the date of the Health Authority's decision to suspend or contingently remove him, or (as appropriate),
 - (b) six months beginning with the date of their decision on the previous review.
- (3) On such a review, the Health Authority may—
 - (a) confirm the contingent removal or the suspension,
 - (b) in the case of a suspension, terminate it,
 - (c) in the case of a contingent removal, vary the conditions, impose different conditions, revoke the contingent removal, or remove the practitioner from the list.]

Textual Amendments

F122 S. 49L inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), Sch. 1 Pt. II; S.I. 2002/1475, art. 2(1)

VALID FROM 22/11/2001

[^{F123}49MAppeals

- (1) A practitioner may appeal to the FHSAA against a decision of a Health Authority mentioned in subsection (2) by giving notice in writing to the FHSAA within the period of 28 days beginning with the date on which the Health Authority gave him notice of the decision.
- (2) The Health Authority decisions in question are—
 - (a) to remove the practitioner from a list (under section 49F or 49G(3) or under subsection (5)(b) of this section),
 - (b) to remove him contingently (under section 49G),
 - (c) to impose any particular condition under section 49G, or to vary any condition or to impose any different condition under that section,
 - (d) to vary his terms of service (under section 49G(4)),
 - (e) any decision on a review of a contingent removal under section 49L.
- (3) The appeal shall be by way of redetermination of the Health Authority's decision.

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- (4) On an appeal, the FHSAA may make any decision which the Health Authority could have made.
- (5) If the FHSAA decides to remove the practitioner contingently—
 - (a) the Health Authority and the practitioner may each apply to the FHSAA for the conditions imposed on the practitioner to be varied, for different conditions to be imposed, or for the contingent removal to be revoked, and
 - (b) the Health Authority may remove him from their list if they determine that he has failed to comply with a condition.
- (6) The Health Authority shall not remove a person from a list, or impose a contingent removal—
 - (a) until the expiry of the period of 28 days referred to in subsection (1), or
 - (b) if the practitioner appeals within that period, until the FHSAA has disposed of the appeal.
- (7) Regulations may provide for payments by Health Authorities to practitioners who are removed from lists pursuant to decisions of the FHSAA under this section, but whose appeals against those decisions are successful.]

Textual Amendments

F123 S. 49M inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), Sch. 1 Pt. II; S.I. 2002/1475, art. 2(1)

VALID FROM 22/11/2001

[^{F124}49N National disqualification

- (1) If the FHSAA removes the practitioner from a list, it may also decide to disqualify him from inclusion in—
 - (a) all lists referred to in section 49F(1)(a) to (e) prepared by all Health Authorities,
 - (b) all supplementary lists prepared by all Health Authorities, and
 - (c) all services lists prepared by all Health Authorities under section 28DA above or under section 8ZA of the National Health Service (Primary Care) Act 1997 (c. 46), or any list corresponding to a services list prepared by any Health Authority by virtue of regulations made under section 41 of the Health and Social Care Act 2001,
 or only from inclusion in one or more descriptions of such lists prepared by all Health Authorities, the description being specified by the FHSAA in its decision.
- (2) A decision by the FHSAA to do what is mentioned in subsection (1) is referred to in this section as the imposition of a national disqualification.
- (3) The FHSAA may also impose a national disqualification on a practitioner if it dismisses an appeal by him against a Health Authority's refusal to include him in

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such a list (or, in the case of a medical list, to nominate or approve him for inclusion in it).

- (4) The Health Authority may apply to the FHSAA for a national disqualification to be imposed on a person after they have—
 - (a) removed him from a list of theirs of any of the kinds referred to in subsection (1)(a) to (c), or
 - (b) refused to include him in such a list (or, in the case of a medical list, to nominate or approve him for inclusion in it).
- (5) Any such application must be made before the end of the period of three months beginning with the date of the removal or of their refusal.
- (6) If the FHSAA imposes a national disqualification on a person—
 - (a) no Health Authority may include him in a list of any of the kinds from which he has been disqualified from inclusion prepared by them, and
 - (b) if he is included in such a list, each Health Authority in whose list he is included must remove him from it.
- (7) The FHSAA may at the request of the person upon whom it has been imposed review a national disqualification, and on a review may confirm it or revoke it.
- (8) Subject to subsection (9), the person may not request such a review before the end of the period of—
 - (a) two years beginning with the date on which the national disqualification was imposed, or
 - (b) one year beginning with the date of the FHSAA’s decision on the last such review.
- (9) The Secretary of State may provide in regulations for subsection (8) to have effect in prescribed circumstances as if the reference there to “two years” or “one year” were a reference to a different period specified in the regulations.]

Textual Amendments

F124 S. 49N inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), Sch. 1 Pt. II; S.I. 2002/1475, art. 2(1) Sch. Pt. 1

Modifications etc. (not altering text)

C15 S. 49N(8) modified (W.) (26.8.2002) by S.I. 1992/635, reg. 7H (as inserted (26.8.2002) by The National Health Service (General Medical Services) (Amendment) (Wales) (No. 2) Regulations 2002 (S.I. 2002/1896), reg. 5)

VALID FROM 22/11/2001

[^{F125}490 Notification of decisions

Regulations may require a Health Authority to notify prescribed persons, or persons of prescribed descriptions, of any decision they make under this group of sections,

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and of any information relevant to the decision which they consider it appropriate to include in the notification.]

Textual Amendments

F125 S. 49O inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1)

VALID FROM 22/11/2001

[^{F126}49P Withdrawal from lists

Regulations may provide for circumstances in which a practitioner—

- (a) whom a Health Authority are investigating in order to see whether there are grounds for exercising their powers under section 49F, 49G or 49I,
- (b) whom a Health Authority have decided to remove from a list under section 49F or 49G, or contingently remove under section 49G, but who has not yet been removed or contingently removed, or
- (c) who has been suspended under section 49I,

may not withdraw from a list in which he is included.]

Textual Amendments

F126 S. 49P inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1)

VALID FROM 22/11/2001

[^{F127}49Q Regulations

- (1) Any decision by a Health Authority referred to in this group of sections shall be reached in accordance with regulations made by the Secretary of State about such decisions.
- (2) The regulations shall include provision—
 - (a) requiring the practitioner to be given notice of any allegation against him,
 - (b) giving him the opportunity of putting his case at a hearing before a Health Authority make any decision affecting him under this group of sections,
 - (c) requiring him to be given notice of the Health Authority's decision and the reasons for it and of any right of appeal which he may have.
- (3) The regulations may, in particular, make provision as to criteria which the Health Authority must apply when making decisions in unsuitability cases.]

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Textual Amendments

F127 S. 49Q inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1)

VALID FROM 22/11/2001

[^{F128} 49R Corresponding provision in Scotland and Northern Ireland

- (1) This section applies where it appears to the Secretary of State that there is provision in Scotland or Northern Ireland under which a person may be dealt with in any way which corresponds (whether or not exactly) with a way in which a person may be dealt with under this group of sections.
- (2) A decision in Scotland or Northern Ireland to deal with such a person in such a way is referred to in this section as a “corresponding decision”.
- (3) If this section applies, the Secretary of State may make regulations providing for the effect to be given in England and Wales to a corresponding decision.
- (4) That effect need not be the same as the effect of the decision in the place where it was made.
- (5) The regulations may not provide for a corresponding decision to be reviewed or revoked in England and Wales.]

Textual Amendments

F128 S. 49R inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 25, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1)

VALID FROM 01/10/2001

[^{F129} *The Family Health Services Appeal Authority*]

Textual Amendments

F129 S. 49S and cross-heading inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 27(1), 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4, Sch. Pt. I (subject to transitional provisions in Sch. Pt. II); S.I. 2002/1919, art. 3 (subject to art. 3(2))

[^{F130} 49S The Family Health Services Appeal Authority

- (1) There shall be a body to be known as the Family Health Services Appeal Authority (“FHSAA”).

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- (2) The FHSAA shall be constituted in accordance with Schedule 9A to this Act, which also makes other provision in relation to the FHSAA.
- (3) The FHSAA shall have such functions as are conferred on it by this Act or by any other enactment.
- (4) The Secretary of State may direct the FHSAA to exercise any of his functions relating to the determination of appeals to him which are specified in the directions.
- (5) Directions under subsection (4) shall be given by regulations or by an instrument in writing.
- (6) The Secretary of State may make available to the FHSAA any facilities (including the use of any premises) provided by him or by a Special Health Authority or NHS trust for any service under this Act, and the services of persons employed by the Secretary of State or by a Special Health Authority or NHS trust.
- (7) Subsections (1) to (3) of section 27 above apply in relation to the services of persons employed by a Special Health Authority and made available under subsection (6) as they apply in relation to the services of officers of Special Health Authorities to be made available under section 26 above.
- (8) For the purposes of subsection (6)—
 - (a) the Secretary of State may give directions to an NHS trust requiring it to make facilities or the services of persons available as mentioned there; but
 - (b) subsections (1) and (2) of section 27 above apply in relation to the services of such persons as they apply in relation to the services of officers to be made available by virtue of section 26 above by a Health Authority, Special Health Authority or Primary Care Trust.]

Textual Amendments

F130 S. 49S inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 27(1), 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4, Sch. Pt. I (subject to transitional provisions in Sch. Pt. II); S.I. 2002/1919, {art. 3 } (subject to art. 3(2))

Other provisions supplementary to Part II

50 Exercise of choice of practitioner in certain cases.

Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part of this Act is conferred by or under this Part, that right shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.

51 University clinical teaching and research.

It is the Secretary of State's duty to make available, in premises provided by him by virtue of this Act, such facilities as he considers are reasonably required by any university which has a medical or dental school, in connection with clinical teaching and with research connected with clinical medicine or, as the case may be, clinical dentistry.

Status: Point in time view as at 06/03/1991. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

52 Use of accommodation.

If the Secretary of State considers that any accommodation provided by him by virtue of this Act is suitable for use in connection with the provision of general medical services, general dental services, general ophthalmic services or pharmaceutical services he may make the accommodation available on such terms as he thinks fit to persons providing any of those services.

Modifications etc. (not altering text)

C16 S. 52: transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, **Sch. 1**

53 Immunisation.

Where the Secretary of State arranges with medical practitioners for the vaccination or immunisation of persons against disease, he shall so far as reasonably practicable give every medical practitioner providing general medical services an opportunity to participate in the arrangements.

54 Prohibition of sale of medical practices.

- (1) Where the name of any medical practitioner is or has been at any time entered on any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner.

This subsection is subject to subsections (2) and (3) below; and the additional provisions contained in Schedule 10 to this Act have effect for the purposes of this section.

- [^{F131}(2) Where a medical practitioner whose name has ceased to be entered on any list of medical practitioners undertaking to provide general medical services practices in the locality of a Family Practitioner Committee without his name ever having been entered on a list of medical practitioners undertaking to provide general medical services there, subsection (1) above does not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that locality.
- (3) Subsection (1) above does not prevent the sale of the goodwill or any part of the goodwill of a medical practice carried on in any such locality, being a sale by a medical practitioner whose name has never been entered on a list of medical practitioners undertaking to provide general medical services there, notwithstanding that any part of the goodwill to be sold is attributable to such a practice previously carried on by a person whose name was entered on such a list.
- (4) In this section “general medical services” includes the services so described provided pursuant to the provisions of the National Health Service Act 1946 by arrangement with an Executive Council or pursuant to the provisions of the ^{M12}National Health Service Reorganisation Act 1973 by arrangement with a Family Practitioner Committee.]

Textual Amendments

F131 S. 54(2)–(4) substituted for s. 54(2)(3) by S.I. 1985/39, **art. 7(17)**

Status: Point in time view as at 06/03/1991. This version of this part contains provisions that are not valid for this point in time.

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Marginal Citations

M12 1973 c. 32(113:2).

55

F132

Textual Amendments

F132 S. 55 repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 12(5), 66(2), Sch. 10

56 Inadequate services.

If the Secretary of State is satisfied, after such inquiry as he may think fit, as respects [^{F133}the locality of a Family Practitioner Committee or part of the locality of such a Committee] that the persons whose names are included in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services,
- (b) of dental practitioners undertaking to provide general dental services,
- (c) of persons undertaking to provide general ophthalmic services, or
- (d) of persons undertaking to provide pharmaceutical services,

are not such as to secure the adequate provision of the services in question in [^{F134}that][^{F135}locality or part], or that for any other reason any considerable number of persons in any such [^{F136}locality or part] are not receiving satisfactory services under the arrangements in force under this Part, then—

- ^{F137}(i) he may authorise the Family Practitioner Committee to make such other arrangements as he may approve, or may himself make such other arrangements, and]
- (ii) he may dispense with any of the requirements of regulations made under this Part so far as appears to him necessary to meet exceptional circumstances and enable such arrangements to be made.

Textual Amendments

F133 Words substituted by S.I. 1985/39, art. 7(19)(a)

F134 Word substituted by Health Services Act 1980 (c. 53, SIF 113:2), Sch. 1 para. 61

F135 Words substituted by S.I. 1985/39, art. 17(19)(b)

F136 Words substituted by S.I. 1985/39, art. 17(19)(c)

F137 S. 56(i) substituted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 8

Status:

Point in time view as at 06/03/1991. This version of this part contains provisions that are not valid for this point in time.

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