



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

Co-operation and assistance

[^{F1}12J Health Boards: co-operation with other Health Boards, Special Health Boards and the Agency

- (1) In exercising their functions in relation to the planning and provision of services which it is their function to provide, or secure the provision of, under or by virtue of this Act, Health Boards shall co-operate with one another, and with Special Health Boards and the Agency, with a view to securing and advancing the health of the people of Scotland.
- (2) In pursuance of subsection (1) a Health Board may—
 - (a) undertake to provide, or secure the provision of, services as respects the area of another Health Board, and the other Health Board may enter into arrangements with the first Health Board for that purpose,
 - (b) undertake with one or more other Health Boards to provide, or secure the provision of, services jointly as respects their areas.
- (3) A Health Board undertaking to provide, or secure the provision of, services under subsection (2) may—
 - (a) enter into arrangements with another Health Board, a Special Health Board or the Agency in relation to the provision of such services,
 - (b) do anything in relation to the provision of such services which they could do for the purpose of providing, or securing the provision of, such services as respects their area.
- (4) This section is without prejudice to any other power which a Health Board may have.]

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Textual Amendments

- F1** S. 12J inserted (30.9.2004) by National Health Service Reform (Scotland) Act 2004 (asp 7), **ss. 5, 12(1)**; S.S.I. 2004/361, **art. 2(b)(i)**

13 Co-operation between Health Boards and other authorities.

In exercising their respective functions, Health Boards, [^{F2}HIS (as respects its health service functions only),]^{F3}NHS trusts,] local authorities and education authorities shall co-operate with one another in order to secure and advance the health of the people of Scotland.

Textual Amendments

- F2** Words in s. 13 inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 5**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**
- F3** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(4)**

Modifications etc. (not altering text)

- C1** S. 13 applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2), Sch. Pt. I**
- C2** S. 13 applied (1.4.1993) by S.I. 1993/577, **art. 5(1)(2), Sch. Pt. I** (with **art. 6**)
S. 13 applied (1.4.1995) by S.I. 1995/574, **art. 5(1)(2), Sch. Pt. I** (with **art. 6**)
S. 13 applied (1.4.1999) by S.I. 1999/686, **art. 5(1)(2), Sch. Pt. I**
S. 13 applied (1.4.1999) by S.I. 1999/726, **art. 5(1)(2), Sch. Pt. I**
S. 13 applied (1.4.2000) by S.S.I. 2000/47, **art. 5(1)(2), Sch. Pt. I**
S. 13 applied (6.4.2001) by S.S.I. 2001/137, **art. 5(1), Sch. Pt. I**
S. 13 applied (31.3.2002) by S.S.I. 2002/103, **art. 6, Sch. Pt. I** (with **art. 4(4)**)
S. 13 applied (27.6.2002) by S.S.I. 2002/305, **art. 5(1), Sch. Pt. I** (with **art. 4(4)**)

[^{F4}13A Co-operation in planning of services for disabled persons, the elderly and others.

(1) The duty under section 13, in relation to persons to whom this section applies, includes—

- (a) joint planning of—
(i) services for those persons; and
(ii) the development of those services,

[^{F5}by Health Boards and such of the authorities as mentioned in that section [^{F6}(including HIS)] as may be concerned]

(b) such consultation with voluntary organisations providing services similar to those mentioned in paragraph (a) as might be expected to contribute substantially to the joint planning of the services mentioned in that paragraph;

[^{F7}(c) the publication, at such times and in such manner as the bodies who have made joint plans under paragraph (a) consider appropriate, of those joint plans.]

(2) This section applies to—

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- (a) disabled persons within the meaning of the Disabled Persons (Services, Consultation and Representation) Act 1986;
- (b) persons aged 65 or more; and
- (c) such other categories of persons as the Secretary of State may by order specify.]

Textual Amendments

- F4** S. 13A inserted by [National Health Service \(Amendment\) Act 1986 \(c. 66, SIF 113:2\)](#), **s. 5(1)**
- F5** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 19(5)**
- F6** Words in s. 13A(1) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 6**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F7** Section 13A(1)(c) repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), **Sch. 10**

Modifications etc. (not altering text)

- C3** S. 13A applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
S. 13A applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
S. 13A applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
- C4** S. 13A applied (1.4.2003) by S.I. 1990/2639, art. 5(1), Sch. Pt. 1 (as amended by [The Health Education Board for Scotland Amendment Order 2003 \(S.S.I. 2003/154\)](#)), **art. 6(a)(i)**

[^{F8}13B [^{F9}Joint Liaison Committees.

- (1) The Secretary of State may, after consultation with such Health Boards, local authorities, education authorities, associations of such authorities and other organisations and persons as appear to him to be appropriate, by order provide for the formation and as to the functions of committees, to be known as joint liaison committees, to advise Health Boards and local education authorities on the performance of such of their duties under section 13 as consist of co-operation in the planning and operation of services of common concern to Health Boards and such authorities.
- (2) An order under subsection (1) may contain provisions relating to the role of voluntary organisations in joint liaison committees.]

Textual Amendments

- F8** Section 13B repealed (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), **Sch. 10**
- F9** S. 13B inserted (prosp.) by [National Health Services \(Amendment\) Act 1968 \(c. 66, SIF 113:2\)](#), **s. 5(1)**

14 Designated medical officers.

^{F10}

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Textual Amendments

F10 S. 14 repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), ss. 126(1), 128(2), Sch. 3 (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

15 Supply of goods and services to local authorities, etc.

- (1) The Secretary of State, a Health Board or the Agency may—
- (a) purchase and store and, on such terms and conditions as may be agreed, supply to persons ^{F11}—
 - (i) providing ^{F12}primary medical services under a general medical services contract or], general dental or general ophthalmic services, or pharmaceutical services under Part II ^{F13} or
 - (ii) providing, in accordance with section 17C arrangements, ^{F14}primary medical services], personal dental services or other services of a kind that may be provided under this Part or Part III,]

such equipment, goods or materials as may be prescribed;
 - ^{F15}(b) purchase and store and, on such terms and conditions as may be agreed, supply to local authorities, education authorities, government departments and such public bodies or classes of public bodies as may be determined by the Secretary of State, any equipment, goods or materials of a kind used in the health service;
 - (c) provide local authorities and education authorities, on such terms and conditions as may be agreed, with any administrative, professional or other services of persons employed by ^{F16}or having contracts with] the Secretary of State, a Health Board or the Agency;
 - (d) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use premises occupied for the purposes of the health service;
 - (e) permit local authorities and education authorities, on such terms and conditions as may be agreed, to use any vehicle, plant or apparatus belonging to a Health Board or the Agency;
 - (f) permit education authorities, on such terms and conditions as may be agreed, and for the purpose of providing special education within the meaning of section ^{F17}1(5)(c) of the ^{M1}Education (Scotland) Act 1980], to use any premises or facilities provided under section 36;
 - (g) carry out, on such terms and conditions as may be agreed, maintenance work in connection with land or buildings for the maintenance of which a local authority or education authority is responsible.

^{F18}(1A) Paragraphs (b) to (e) of subsection (1) apply to HIS (in respect of the exercise of its health service functions only) as they apply to a Health Board.]

- (2) In paragraphs (a) and (b) of subsection (1) ^{F19}(including paragraph (b) as applied by subsection (1A)), the power to supply equipment, goods and materials includes a power to make arrangements with third parties for the supply by them of those things.
- (3) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so available, ^{F20}the Vehicles Excise and Registration Act 1994]

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and Part VI of the ^{M2}Road Traffic Act 1972 shall have effect with such modifications as are specified in the order.

Textual Amendments

- F11** Words in s. 15(1)(a) renumbered as "(i)" (1.4.1998 for certain purposes, otherwise prosp.) by 1997 c. 46 s. 41(10), Sch. 2 Pt. I para. 35(a); S.I. 1998/631, art. 2(b), **Sch. 2**
- F12** Words in s. 15(1)(a)(i) substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 1(2)(a)**; S.S.I. 2004/58, **art. 2(3)**.
- F13** S. 15(1)(a)(ii) and preceding word "or" inserted (1.4.1999 for certain purposes, otherwise prosp.) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 35(b)**; S.I. 1998/631, art. 2(b), **Sch. 2**
- F14** Words in s. 15(1)(a)(ii) substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 1(2)(b)**; S.S.I. 2004/58, **art. 2(3)**
- F15** S. 15(2) applied in part (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
S. 15(2) applied in part (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I**
S. 15(2) applied in part (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
S. 15(2) applied in part (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**
- F16** Words inserted by Health Services Act 1980 (c. 53), s. 3(2)
- F17** Words substituted by Education (Scotland) Act 1980 (c. 44), **Sch. 4 para. 16**
- F18** S. 15(1A) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 7(a)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F19** Words in s. 15(2) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **Sch. 17 para. 7(b)**; S.S.I. 2010/321, art. 3, Sch.; S.S.I. 2011/122, art. 2, Sch.
- F20** Words in s. 15(3) substituted (1.9.1994) by 1994 c. 22, s. 63, **Sch. 3 para. 13** (with s. 57(4))

Modifications etc. (not altering text)

- C5** S. 15(1)(a) modified (1.4.2004) by The General Medical Services and Section 17C Agreements (Transitional and other Ancillary Provisions) (Scotland) Order 2004 (S.S.I. 2004/163), **art. 96**
- C6** S. 15(1)(b)–(e), (2) applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C7** S. 15(1)(b)–(e) applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
S. 15(1)(b)–(e) applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
S. 15(1)(b)–(e) applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
S. 15(1)(b)–(e) applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

Marginal Citations

- M1** 1980 c. 44.
M2 1972 c. 20.

16 Assistance to voluntary organisations.

- (1) The Secretary of State may assist any voluntary organisation whose activities include the provision of a service similar or related to a service provided under this Act by permitting them to use premises belonging to him on such terms as may be agreed, and by making available goods, materials, vehicles or equipment (whether by way of gift, loan or otherwise) and the services of any staff who are employed in connection with the premises or other things which he permits the organisation to use.
- (2) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so available, [^{F21}the Vehicles Excise and Registration Act 1994]and Part

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VI of the ^{M3}Road Traffic Act 1972 shall have effect with such modifications as are specified in the order.

(3) ^{F22}

Textual Amendments

F21 Words in s. 16(2) substituted (1.9.1994) by 1994 c. 22, s.63, **Sch. 3 para. 13** (with s. 57(4))

F22 Ss. 16(3), 20(2), 51, 52, 59–63, 65–68, 96(2), Sch. 16 paras. 25, 43 repealed by Health Services Act 1980 (c. 53), **Sch. 7**

Modifications etc. (not altering text)

C8 S. 16: by S.I. 1990/2639, **art. 4(2)(a)** certain functions of the Secretary of State under s. 16 are made exercisable (1.4.1991) by the Health Education Board for Scotland

C9 S. 16(1): functions transferred (31.3.2002) by S.S.I. 2002/103, **art. 4(2)(a)** (with art. 4(4))

S. 16(1): functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(a)** (with art. 4(4))

Marginal Citations

M3 1972 c. 20.

[^{F23}16A Power to make payments towards expenditure on community services.

(1) A Health Board may, if they think fit, make payments in accordance with this section to any [^{F24}local authority] towards expenditure incurred or to be incurred by them in connection with the performance of the following functions—

(a) any function [^{F25}under any of the enactments mentioned in section 5(1B) of the Social Work (Scotland) Act 1968 (power of Secretary of State to issue directions to local authorities in respect of their functions under certain enactments), other than section 3 of the Disabled Persons (Employment) Act 1958];

(b) any ^{F26} . . . functions under section 1 of the Education (Scotland) Act ^{M4}1980 in making provision for—

(i) ^{F27}

(ii) further education,

within the meaning of [^{F28}that term] in that section;

[^{F29}(ba) any functions under section 4 or 5 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) in making provision for additional support needs;]

(c) any ^{F26} . . . functions under Part VII of the Housing (Scotland) Act ^{M5}1966 (provision of housing accommodation); and

(d) any ^{F26} . . . functions under the following provisions—

(i) Part III of the National Assistance Act ^{M6}1948;

(ii) section 116 of the Mental Health Act 1983;

(iii) section 1 or 2 of the Chronically Sick and Disabled Persons Act ^{M7}1970;

(iv) section 23 or 297 of the Criminal Procedure (Scotland) Act ^{M8}1975.

(2) A Health Board may, if they think fit, make payments in accordance with this section to any of the following bodies towards expenditure incurred or to be incurred by them in connection with the provision of housing accommodation—

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- [a registered housing association within the meaning of the Housing Associations Act 1985;]^{F30}(a)
- (b) any development corporation established under section 2 of the New Towns (Scotland) Act^{M9}1968;
- (c) the Housing Corporation; and
- (d) the Scottish Special Housing Association.
- (3) Where a voluntary organisation provides services similar to the functions referred to in this section, payments may be made in accordance with this section to any such organisation towards expenditure incurred or to be incurred in connection with the provision of those services and such payments may be made by-
- (a) any Health Board either instead of or in addition to making payments under this section to any council, authority or other body in respect of such services; and
- (b) any such council, authority or other body which has received payments from a Health Board under this section, out of the sums so received.
- (4) Any payments made under this section, whether in respect of expenditure of a capital or of a revenue nature, or of both, shall be made in accordance with conditions prescribed for payments of that description by the Secretary of State in directions given under this subsection.]

Textual Amendments

- F23** S. 16A substituted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 2
- F24** Words in s. 16A(1) substituted (1.4.1996) by S.I. 1996/974, art. 2(1), **Sch. 1 Pt. I para. 5**
- F25** Words in s. 16A(1)(a) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 112(2)(a)** (with s. 128(8); S.I. 1996/323, art. 4
- F26** Words in s. 16A(1)(b)-(c) repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 112(2)(b)-(d), **Sch. 14** (with ss. 128(8), 179); S.I. 1996/323, art. 4(1)(d), **Sch. 2**
- F27** S. 16A(1)(b)(i) repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), ss. 33, 35(1), **Sch. 3 para. 2(a)(i)**; S.S.I. 2005/564, art. 2
- F28** Words in s. 16A(1)(b) substituted (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), ss. 33, 35(1), **Sch. 3 para. 2(a)(ii)**; S.S.I. 2005/564, art. 2
- F29** S. 16A(1)(ba) inserted (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), ss. 33, 35(1), **Sch. 3 para. 2(b)**; S.S.I. 2005/564, art. 2
- F30** Paragraph (a) substituted by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4(1), **Sch. 2 para. 41**

Modifications etc. (not altering text)

- C10** S. 16A applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt I** (with art. 6)

Marginal Citations

- M4** 1980 c.44(41:2).
- M5** 1966 c.49.
- M6** 1948 c.29(81:3).
- M7** 1970 c.44(81:3).
- M8** 1975 c.21(39:1).
- M9** 1968 c.16(123:4).

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[^{F31}16B Financial assistance by the Secretary of State to voluntary organisations.

- (1) The Secretary of State may, upon such terms and subject to such conditions as he may, with the approval of the Treasury, determine, give to a voluntary organisation to which this section applies assistance by way of grant or loan, or partly in the one way and partly in the other.
- (2) This section applies to a voluntary organisation whose activities consist in or include the provision of a service similar to a relevant service, the promotion or publicising of a relevant service or a similar one or the giving of advice with respect to the manner in which a relevant service or a similar one can best be provided.
- (3) In this section, “relevant service” means a service which must or may, by virtue of the National Health Service (Scotland) Act 1978, be provided or the provision of which must or may, by virtue of that Act, be secured by the Secretary of State, or a service for the provision of which a Health Board is, by virtue of that Act, under a duty to make arrangements.]

Textual Amendments

F31 S. 16B inserted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), [s. 3](#)

Modifications etc. (not altering text)

- C11** S. 16B: by [S.I. 1990/2369](#), [art. 4\(2\)\(b\)](#) certain functions of the Secretary of State under s. 16B are made exercisable (1.4.1991) by the Health Education Board for Scotland
- C12** S. 16B: functions transferred (31.3.2002) by [S.S.I. 2002/103](#), [art. 4\(2\)\(b\)](#) (with [art. 4\(4\)](#))
S. 16B: functions transferred (27.6.2002) by [S.S.I. 2002/305](#), [art. 4\(2\)\(b\)](#) (with [art. 4\(4\)](#))

17 ^{F32}

Textual Amendments

F32 S. 17 repealed by [Overseas Development and Co-operation Act 1980 \(c. 63\)](#), Sch. 2 Pt. I

[^{F33}17AA Provision of certain services under NHS contracts.

- (1) This section applies to any arrangement under which a Health Board or such other health service body as may be prescribed arrange for the provision to them—
 - (a) by a person on an ophthalmic list, or
 - (b) by a person on a pharmaceutical list,
 of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of this Act.
- (2) Any such arrangement is to be treated as an NHS contract for the purposes of section 17A (other than subsections (5) and (7)).
- (3) In this section—
 - “health service body” means a person or body which is a health service body for the purposes of section 17A;

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“ophthalmic list” means

- (a) [^{F34}in relation to a list published in accordance with regulations made under paragraph (a) of section 26(2) of this Act, the first part of the list which is referred to in sub-paragraph (i) of that paragraph;]
- (b) [^{F35}a list published in accordance with regulations made under] section 39(a) of the ^{M10}National Health Service Act 1977; or
- (c) [^{F35}a list published in accordance with regulations made under] article 62(2)(a) of the ^{M11}Health and Personal Social Services (Northern Ireland) Order 1972; and

“pharmaceutical list” means a list published in accordance with regulations made under—

- (a) section 27(2) of this Act;
- (b) section 42(2)(a) of the National Health Service Act 1977; or
- (c) Article 63(2A)(a) of the 1972 Order.]

Textual Amendments

F33 S. 17AA inserted (1.9.1997) by 1997 c. 46, s. 31(2); S.I. 1997/1780, art. 2(3)

F34 S. 17AA(3): words in definition of "ophthalmic list" substituted (1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), Sch. 2 para. 2(5)(a); S.S.I. 2006/121, art. 3(b), Sch. 2

F35 S. 17AA(3): words in definition of "ophthalmic list" inserted (1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), Sch. 2 para. 2(5)(b); S.S.I. 2006/121, art. 3(b), Sch. 2

Marginal Citations

M10 1977 c. 49.

M11 S.I. 1972/1265 (N.I.14).

[^{F36}17A NHS contracts.

- (1) The persons or bodies mentioned in paragraphs (a) to (e) of subsection (2) may, for the purpose of carrying out their functions under any enactment, and without prejudice to any other power they may have in that regard, enter into arrangements for the provision of goods or services to or by them with—
 - (a) one another; or
 - (b) any of the persons or bodies mentioned in [^{F37}paragraphs (f) to (g)] of that subsection.
- (2) The persons and bodies referred to in subsection (1) are—
 - (a) Health Boards;
[Special Health Boards]]
 - ^{F38}(aa) the Agency;
 - ^{F39}(ba) HIS;]
 - (c) the Scottish Dental Practice Board;
 - ^{F40}(d)
 - (e) NHS trusts established under section 12A;

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- [^{F41}(f) Health Authorities established under section 8 of the ^{M12}National Health Service Act 1977;
- ^{F41}(ff) Special Health Authorities established under section 11 of the ^{M13}National Health Service Act 1977;]
- (g) ^{F42}
- [^{F43}(h) the Health Protection Agency;]
- ^{F44}(i)
- ^{F40}(j)
- (k) NHS trusts established under section 5 of the National Health Service and Community Care Act 1990;
- [^{F45}(ka) Primary Care Trusts established under section 16A of the National Health Service Act 1977]
- (l) Health and Social Services Boards constituted under the Health and Personal Social Services (Northern Ireland) Order ^{M14}1972; ^{F46} . . .
- (m) the Secretary of State.
- [^{F47}(n) the Northern Ireland Central Services Agency for the Health and Social Services established under the Health and Personal Social Services (Northern Ireland) Order 1972;
- (o) special health and social services agencies established under the Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990;
- (p) Health and Social Services trusts established under the Health and Personal Social Services (Northern Ireland) Order 1991; and
- (q) the Department of Health and Social Services for Northern Ireland.]^{F48} and in this Act “health service body” means any of those persons or bodies]
- (3) In subsection (1)—
- ^{F49}(a)
- (b) “services” includes services of any description,
- and in this Act an arrangement falling within that subsection is referred to as an “NHS contract”.
- (4) Whether or not an arrangement which constitutes an NHS contract would, apart from this subsection, be a contract in law, it shall not be regarded for any purpose as giving rise to contractual rights or liabilities, but if any dispute arises with respect to such an arrangement, either party may refer the matter to the Secretary of State for determination under the following provisions of this section.
- (5) If, in the course of negotiations intending to lead to an arrangement which will be an NHS contract, it appears to either of the prospective parties that—
- (a) the terms proposed by the other party are unfair by reason that that party is seeking to take advantage of its position as the only, or the only practicable, provider of the goods or services concerned or by reason of any other unequal bargaining position as between the prospective parties to the proposed arrangement; or
- (b) for any other reason arising out of the relative bargaining positions of the prospective parties any of the terms of the proposed arrangements cannot be agreed.
- that party may refer the terms of the proposed arrangement to the Secretary of State for determination under the following provisions of this section.

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- (6) Where a reference is made to the Secretary of State under subsection (4) or (5), the Secretary of State may determine the matter himself or, if he considers it appropriate, appoint a person to consider and determine it in accordance with regulations.
- (7) By his determination of a reference under subsection (5), the Secretary of State or, as the case may be, the person appointed by him under subsection (6) may specify terms to be included in the proposed arrangement and may direct that it be proceeded with; and it shall be the duty of the prospective parties to the proposed arrangement to comply with any such directions.
- (8) A determination of a reference under subsection (4) may contain such directions (including directions as to payment) as the Secretary of State or, as the case may be, the person appointed under subsection (6) considers appropriate to resolve the matter in dispute; and it shall be the duty of the parties to the NHS contract in question to comply with any such directions.
- (9) Without prejudice to the generality of his powers on a reference under subsection (4), the Secretary of State or, as the case may be, the person appointed by him under subsection (6) may by his determination in relation to an arrangement constituting an NHS contract vary the terms of the arrangement or bring it to an end; and where the arrangement is so varied or brought to an end—
- (a) subject to paragraph (b), the variation or termination shall be treated as being effected by agreement between the parties; and
 - (b) directions included in the determination by virtue of subsection (8) may contain such provisions as the Secretary of State or, as the case may be, the person appointed by him under subsection (6) considers appropriate in order satisfactorily to give effect to the variation or to bring the arrangement to an end.
- [^{F50}(10) Where a body mentioned in subsection (2)(1), (n), (o), (p) or (q) is a party or prospective party to an arrangement or proposed arrangement which—
- (a) falls within subsection (1); and
 - (b) also falls within the definition of HSS contract in Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991,
- subsections (4) to (9) shall apply in relation to that arrangement or proposed arrangement with the substitution for references to the Secretary of State of references to the Secretary of State and the Department of Health and Social Services for Northern Ireland acting jointly.]

Textual Amendments

- F36** Ss. 17A and 17B inserted (1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 30](#); S.I. 1990/1793, [art. 2\(4\)](#), [Sch. II](#)
- F37** Words in s. 17A(1)(b) substituted (1.4.1991) by S.I. 1991/195, [art. 4\(2\)](#)
- F38** S. 17A(2)(aa) inserted (1.10.1999) by 1999 c. 8, [s. 65\(1\)](#), [Sch. 4 para. 46\(a\)\(i\)](#); S.S.I. 1999/90, [art. 2\(a\)\(b\)](#), [Sch. 1](#)
- F39** S. 17A(2)(ba) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), [s. 134\(7\)](#), [Sch. 17 para. 8](#); S.S.I. 2010/321, [art. 3](#), [Sch.](#); S.S.I. 2011/122, [art. 2](#), [Sch.](#)
- F40** S. 17A(2)(d)(j) repealed (1.10.1999) by 1999 c. 8, [s. 65](#), [Sch. 4 para. 46\(a\)\(iii\)](#), [Sch. 5](#); S.S.I. 1999/90, [art. 2](#), [Sch. 1](#), [2](#)

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- F41** S. 17A(2)(f)(ff) substituted s. 17A(f) (28.6.1998 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1), 2(3), **Sch. 1 Pt. III para. 102(2)(a)**(with Sch. 2 para. 6)
- F42** S. 17A(2)(g) repealed (1.4.2006) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2005/2925, arts. 1(3), **11**
- F43** Words in s. 17A(2)(h) substituted (1.4.2005) by Health Protection Agency Act 2004 (c. 17), ss. 11(1), 12(1), **Sch. 3 para. 9**; S.I. 2005/121, **art. 2(2)**
- F44** S. 17A(2)(i) repealed (28.6.1995 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1), 2(3), **Sch. 1 Pt. III para. 102(2)(b)** (with Sch. 6 para. 6)
- F45** S. 17A(2)(ka) inserted (1.10.1999) by 1999 c. 8, s. 65(1), **Sch. 4 para. 46(a)(ii)**; S.S.I. 1999/90, **art. 2(a)(b), Sch. 1**
- F46** Word in s. 17A(2) repealed (1.4.1991) by S.I. 1991/195, **art. 4(3)**
- F47** S. 17A(2)(n)-(q) added (1.4.1991) by S.I. 1991/195, **art. 4(3)**
- F48** Words in s. 17A(2) inserted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 36**; S.I. 1998/631, **art. 2, Sch. 2**
- F49** S. 17A(3)(a) and the word “and” following it repealed (1.10.1999) by 1999 c. 8, s. 65, **Sch. 4 para. 46(b), Sch. 5**; S.S.I. 1999/90, **art. 2, Sch. 1, 2**
- F50** S. 17A(10) added (1.4.1991) by S.I. 1991/195 **art. 4(4)**

Modifications etc. (not altering text)

- C13** S. 17A applied (1.4.1993) by S.I. 1993/577, **art. 5(1)(2), Sch. Pt. I**
 S. 17A applied (1.4.1995) by S.I. 1995/574, **art. 5(1)(2), Sch. Pt. I**
 S. 17A extended (30.10.1997 for certain purposes and 11.5.1998 for all other purposes) by 1997 c. 46, **s. 16(5)**; S.I. 1997/2620, **art. 2(1)(b)**; S.I. 1998/631, **art. 2(2)**
 S. 17A applied (1.4.1999) by S.I. 1999/686, **art. 5(1)(2), Sch. Pt. I**
 S. 17A applied (1.4.1999) by S.I. 1999/726, **art. 5(1)(2), Sch. Pt. I**
 S. 17A applied (1.4.2000) by S.S.I. 2000/47, **art. 5(1)(2), Sch. Pt. I**
 S. 17A applied (6.4.2001) by S.S.I. 2001/137, **art. 5(1), Sch. Pt. I**
 S. 17A applied (31.3.2002) by S.S.I. 2002/103, **art. 6, Sch. Pt. I** (with **art. 4(4)**)
 S. 17A applied (27.6.2002) by S.S.I. 2002/305, **art. 5(1), Sch. Pt. I** (with **art. 4(4)**)
- C14** S. 17A applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2), Sch. Pt. I**

Marginal Citations

- M12** 1977 c. 49.
M13 1977 c. 49.
M14 S.I. 1972/1265 (N.I. 14).

^{F51}17B Reimbursement of Health Board’s costs.

- (1) Where a Health Board provide goods or services under this Act for an individual for whose health care it is not their function to provide by virtue of section 2(1), in circumstances where the condition of the individual is such that he needs those goods or services and, having regard to his condition, it is not practicable, before providing them, to enter into an NHS contract for their provision, that Health Board shall be remunerated in respect of that provision by the Health Board or Health and Social Services Board which has the function, or the [^{F52}Health Authority or Special Health Authority] which has the primary functions, of providing those goods or services to that individual.
- (2) The rate of any remuneration payable by virtue of subsection (1) shall be calculated in such manner or on such basis as may be determined by the Secretary of State.
- (3) In any case where—

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- (a) a Health Board provide goods or services for the benefit of an individual; and
- (b) the provision of those goods and services is not pursuant to an NHS contract; and
- (c) the individual is resident outside the United Kingdom and is of a description (being a description associating the individual with another country) specified for the purposes of this subsection by a direction made by the Secretary of State,

the Health Board shall be remunerated by the Secretary of State in respect of the provision of the goods or services at such rate or rates as he considers appropriate.

- (4) In subsection (1), “Health and Social Services Board” means such a Board constituted under the Health and Personal Social Services (Northern Ireland) Order 1972 ^{F53} and the reference to a function of a Health and Social Services Board is a reference to a primary function of such a Board within the meaning of Article 9 of the Health and Personal Social Services (Northern Ireland) Order 1991].

Textual Amendments

- F51** Ss. 17A and 17B inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 30; S.I. 1990/1793, art. 2(4), Sch. II
- F52** Words in s. 17B(1) substituted (28.6.1995 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1)(3), 4(2), 8(1), Sch. 1 Pt. III para. 102(3) (with Sch. 2 para. 6)
- F53** Words in s. 17B(4) added (1.4.1991) by S.I. 1991/195, art. 4(5).

^{F54}17C Personal medical or dental services.

- (1) A Health Board may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 17E, under which—
- (a) ^{F55}primary medical services] are provided (otherwise than by the Board); or
 - (b) personal dental services are provided (otherwise than by the Board).
- (2) An agreement made under this section—
- (a) may not combine arrangements for the provision of ^{F55}primary medical services] with arrangements for the provision of personal dental services.

^{F56}(2A) An agreement made under this section—

- (a) for the provision of primary medical services may include arrangements for the provision of services which are not primary medical services and may provide for such other services to be performed in any place where, by virtue of section 2C, primary medical services may be performed;
 - (b) for the provision of personal dental services] may include arrangements for the provision of services—
 - (i) which are not ^{F55}primary medical services] or personal dental services; but
 - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
- (a) ^{F57}
 - (b) a patient for whom personal dental services are provided under an agreement made under this section is not to count as a person for whom arrangements must be made by the Health Board concerned under section 25.

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- (4) This Act (and in particular section 2) has effect, in relation to ^{F58} . . . personal dental services provided under an agreement made under this section, as if those services were provided as a result of the delegation by the Secretary of State (by directions given under section 2) of functions of his under this Part.
- (5) Regulations may provide—
- (a) for functions which are exercisable by a Health Board in relation to an agreement made under this section to be exercisable on behalf of the Board by a [^{F59}Strategic Health Authority or by a] Health Authority; and
 - (b) for functions which are exercisable by a [^{F59}Strategic Health Authority or by a] Health Authority in relation to an agreement made under section 28C of the ^{M15}National Health Service Act 1977 to be exercisable on behalf of the Authority by a Health Board.
- (6) For the purposes of this section—
- [^{F60}“Strategic Health Authority” and “Health Authority” have the same meaning as in the National Health Service Act 1977;]
- ^{F61}
- “personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part II.

Textual Amendments

- F54** S. 17C inserted (5.3.2001 for certain purposes only and otherwise *prosp.*) by 1997 c. 46, **ss. 21(2), 41(3)**; S.S.I. 2001/58, **art. 2**
- F55** Words in s. 17C(1)(a)(2)(a)(b)(i) substituted (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(2)(a), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F56** S. 17C(2A) substituted for words (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(2)(b), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F57** S. 17C(3)(a) repealed (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(2)(c), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F58** Words in s. 17C(4) repealed (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(2)(d), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F59** Words in s. 17C(5)(a)(b) inserted (1.10.2002) by 2002 c. 17, s. 4(3), **Sch. 3 Pt. 2 para. 12(a)**; S.I. 2002/2478, **art. 3(1)(a)** (with art. 3(3) and transitional provision in art. 4)
- F60** Definition in s. 17C substituted (1.10.2002) by 2002 c. 17, s. 4(3), **Sch. 3 Pt. 2 para. 12(b)**; S.I. 2002/2478, **art. 3(1)(a)** (with art. 3(3) and transitional provision in art. 4)
- F61** S. 17C(6): definition of "personal medical services" repealed (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(2)(e), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3)**, Sch.

Marginal Citations

- M15** 1977 c. 49.

[^{F62}17CAPrimary medical services: persons with whom agreements can be made

- (1) A Health Board may, subject to such conditions as may be prescribed, make an agreement under section 17C under which primary medical services are provided with—

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- (a) a medical practitioner,
 - (b) a health care professional (other than a medical practitioner),
 - (c) a qualifying partnership,
 - (d) a qualifying limited liability partnership,
 - (e) a qualifying company, or
 - (f) two or more of the persons mentioned in paragraphs (a) to (e).
- (2) For the purposes of subsection (1)—
- (a) a qualifying partnership is a partnership that satisfies both of the following conditions—
 - (i) at least one partner is a medical practitioner or other health care professional,
 - (ii) all other partners are individuals,
 - (b) a qualifying limited liability partnership is a limited liability partnership that satisfies both of the following conditions—
 - (i) at least one member is a medical practitioner or other health care professional,
 - (ii) all other members are individuals,
 - (c) a qualifying company is a company which satisfies both of the following conditions—
 - (i) at least one member of the company is a medical practitioner or other health care professional,
 - (ii) all other members are individuals.
- (3) A Health Board may only make such an agreement if the Board is satisfied that all the other parties to the agreement (“the contractors”) have sufficient involvement in patient care.
- (4) A contractor has sufficient involvement in patient care if—
- (a) where the contractor is a medical practitioner or a health care professional, the contractor, or
 - (b) where the contractor is a partnership, limited liability partnership or a company, each partner or, as the case may be, member of the contractor, regularly performs, or is engaged in the day to day provision of, primary medical services in accordance with section 17C arrangements, a general medical services contract or any other arrangement made in pursuance of section 2C(2) (or will so perform or be so engaged by virtue of the agreement in question).
- (5) Regulations may—
- (a) make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of, primary medical services for the purposes of subsection (4),
 - (b) provide that references in subsection (4) to a person who is performing or is engaged in the provision of services include a person who has performed or been engaged in providing the services within such period as may be prescribed.
- (6) Regulations under subsection (5)(a) may, in particular, provide that a period of time in which a person is not performing or is not engaged in the provision of primary medical services is, in prescribed circumstances, to be disregarded for the purposes

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of determining whether the person regularly performs or is engaged in the day to day provision of those services.

- (7) In relation to an agreement under section 17C under which primary medical services are provided which is entered into with a partnership, regulations may make provision as to the effect on the agreement of a change in membership of the partnership.
- (8) In this section, “health care professional” means a member of a profession which is regulated by a body mentioned (at the time the agreement in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17).]

Textual Amendments

F62 S. 17CA inserted (8.11.2010 for certain purposes otherwise 22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), ss. 38, 43(3), S.S.I. 2010/372, art. 2, Schs. 1, 2

[^{F64F65F66} ^{F63} **17D Personal dental services: persons] with whom agreements may be made.**

- (1) A Health Board may make an agreement under section 17C [^{F67} under which personal dental services are provided] only with one or more of the following—

(a) an NHS trust;

[^{F68}(b) [^{F69}a company which is limited by shares all of which are legally and beneficially owned by persons falling within the following sub-paragraphs and paragraphs (c) to (d)]—

- (i) a medical practitioner who satisfies the prescribed conditions;
- (ii) a health care professional who satisfies the prescribed conditions;
- (iii) a person who is providing primary medical services in accordance with a general medical services contract;
- (iv) a person who is providing primary medical services in accordance with a section 28Q contract or an [^{F70} Article 57 contract];
- (v) a person who is providing primary medical services in accordance with section 17C [^{F71}arrangements,] section 28C arrangements or [^{F72} . . . Article 15B arrangements];
- (vi) an individual who is providing general dental services;
- (vii) a person who is providing primary dental services in accordance with a section 28K contract or an individual who is providing general dental services in accordance with Article 61 of the 1972 Order;
- (viii) a person who is providing personal dental services in accordance with section 17C arrangements;
- (ix) a person who is providing primary dental services in accordance with section 28C arrangements or personal dental services in accordance with Article 15B arrangements;]

[^{F73} . . .

(c)] a qualifying dental practitioner;

[^{F74}(ca)] an individual who is providing personal dental services in accordance with section 17C arrangements or [^{F75}primary dental services in accordance with] section 28C arrangements;

(d) an NHS employee, a section 17C employee [^{F76}, [^{F77}or] a section 28C employee [^{F78} . . .];

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(e) a qualifying body.

(1A) ^{F79}

(1B) ^{F79}

(2) In this section—

[^{F80}“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972 (1972 No. 1256 (N.I. 14));]

“the 1977 Act” means the ^{M16}National Health Service Act 1977;

[^{F81}“Article 15B arrangements” means arrangements for the provision of services made under Article 15B of the 1972 Order;

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

[^{F82}“Article 57 contract” means a general medical services contract under Article 57 of the 1972 Order;]

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

“Local Health Board” has the same meaning as in the 1977 Act;]

“NHS employee” means an individual who, in connection with the provision of services in the health service in Scotland or England and Wales [^{F83}or, in relation to paragraph (b) below, Northern Ireland], is employed by—

- (a) an NHS trust;
- (b) [^{F84}in the case of an agreement under which primary medical services are provided—
 - (i) a Health Board;
 - (ii) a Primary Care Trust or a Local Health Board;
 - (iii) an NHS trust, an NHS foundation trust or (in Northern Ireland) a Health and Social Services Trust;
 - (iv) a person who is providing primary medical services in accordance with a general medical services contract or a section 28Q contract or an individual who is providing general medical services in accordance with Article 56 of the 1972 Order;
 - (v) an individual who is providing general dental services;
 - (vi) a person who is providing primary dental services in accordance with a section 28K contract or an individual who is providing general dental services in accordance with Article 61 of the 1972 Order;

and in this paragraph NHS foundation trust, NHS trust and Primary Care Trust have the same meanings as in the 1977 Act;]

(c) in the case of an agreement under which personal dental services are provided—

- (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 25(2)(a) of this Act or section [^{F85}28X] of the 1977 Act; or

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- (ii) a dental practitioner who is providing personal dental services in accordance with section 17C arrangements or [^{F86}primary dental services in accordance with] section 28C arrangements;

“qualifying body” means—

- (a) ^{F87}
- (b) ^{F88} . . . a body corporate which, in accordance with the provisions of Part IV of the ^{M17}Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under section 17E(2)(b) of this Act or section 28E(2)(b) of the 1977 Act;

^{F89}

“section 17C employee” means an individual who, in connection with the provision of services in accordance with section 17C arrangements, is employed by,

- (a) [^{F90}where the arrangements are for the provision of primary medical services, a person providing services in accordance with the arrangements;
- (b) where the arrangements are for the provision of personal dental services, an individual providing services in accordance with the arrangements];

“section 28C arrangements” means arrangements for the provision of services made under section 28C of the 1977 Act; ^{F91} . . .

“section 28C employee” means an individual who, in connection with the provision of services in accordance with section 28C arrangements, is employed by

- (a) [^{F90}where the arrangements are for the provision of primary medical services, a person providing services in accordance with the arrangements;
- (b) where the arrangements are for the provision of personal dental services, an individual providing services in accordance with the arrangements

[^{F92}“section 28K contract” means a general dental services contract under section 28K of the 1977 Act; and

“section 28Q contract” means a general medical services contract under section 28Q of the 1977 Act.

[The references in subsection (1)(b)(iii) to (ix) to a person or individual who is ^{F93}(3) providing services include a person or, as the case may be, an individual who has provided them within such period as may be prescribed.]]]

Textual Amendments

- F63** Words in s. 17D title substituted (22.12.2010) by [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), ss. 41, 43(2), **Sch. 2 para. 6(2)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2**, **Sch. 2**
- F64** By [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(2), **Sch. 11 para. 46(1)(2)(a)**; S.I. 2004/288, arts. 1(5), **5(2)(r)** (as amended by S.I. 2004/866, art. 2(1)) it is provided that in s. 17D(1)(b)(ii) the words "primary medical services in accordance with" be inserted after "arrangements or" (1.4.2004) (which original words were substituted (13.2.2004 for certain purposes and 1.4.2004 otherwise) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(a)**, 9(1); S.S.I. 2004/58, **art. 2**, **Sch.**)

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- F65** S. 17D inserted (5.3.2001 for certain purposes only and otherwise *prosp.*) by 1997 c. 46, **ss. 21(2), 40(3)**; S.S.I. 2001/58, **art. 2**
- F66** By Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 184, 199(2), Sch. 11 para. 46(1)(3)(a)**; S.I. 2004/288, **arts. 1(5), 5(2)(r)** (as amended by S.I. 2004/866, **art. 2(1)**) it is provided that in s. 17D(2) the words "primary medical services in accordance with" be inserted after "arrangements or" (1.4.2004) (which original words were substituted (13.2.2004 for certain purposes and 1.4.2004 otherwise) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(d)(iv), 9(1)**; S.S.I. 2004/58, **art. 2, Sch.**)
- F67** Words in s. 17D(1) inserted (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(a)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F68** S. 17D(1)(b) substituted (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(a), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3), Sch.**
- F69** Words in s. 17D(1)(b) substituted (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(b)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F70** Words in s. 17D(1)(b)(iv) substituted (1.2.2006) by The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 (S.S.I. 2006/30), **{art. 2(2)(a)(i)}**
- F71** Words in s. 17D(1)(b)(v) substituted (1.2.2006) by The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 (S.S.I. 2006/30), **{art. 2(2)(a)(ii)}**
- F72** Words in s. 17D(1)(b)(v) omitted (1.2.2006) by virtue of The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 (S.S.I. 2006/30), **{art. 2(2)(a)(ii)}**
- F73** Words in s. 17D(1)(c) repealed (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(c)(i)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F74** S. 17D(1)(c)(i)(ii) renumbered as s. 17D(1)(c)(ca) (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(c)(ii)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F75** Words in s. 17D(1)(c)(ii) inserted (1.4.2006) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), **ss. 184, 199(1), Sch. 11 para. 46(1)(2)(b)**; S.I. 2005/2925 **arts. 1(3), {10}**
- F76** Words in s. 17D(1)(d) substituted (13.2.2004 for certain purposes otherwise 1.4.2004) by virtue of Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(b), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3), Sch.**
- F77** Word in s. 17D(1)(d) inserted (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(d)(i)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F78** Words in s. 17D(1)(d) repealed (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(d)(ii)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F79** S. 17D(1A)(1B) repealed (22.12.2010) by Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3), **ss. 41, 43(2), Sch. 2 para. 6(1)(e)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2, Sch. 2**
- F80** S. 17D(2): definition of "the 1972 Order" inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by virtue of Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(d)(i), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3), Sch.**
- F81** S. 17D(2): definitions inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(d)(ii), 9(1)**; S.S.I. 2004/58, **art. 2(1)(3), Sch.**
- F82** S. 17D(2): definition of "Article 57 contract" inserted (1.2.2006) by The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 (S.S.I. 2006/30), **{art. 2(2)(b)}**

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- F83** S. 17D(2): words in definition of "NHS employee" inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(d)(iii)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F84** S. 17D(2): definition of "NHS employee" para. (b) substituted (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(d)(iv)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F85** S. 17D(2): definition of "NHS employee" words in para. (c)(i) substituted (1.4.2006) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(1), **Sch. 11 para. 46(3)(b)**; S.I. 2005/2925 arts. 1(3), {10}
- F86** S. 17D(2): definition of "NHS employee" words in para. (c)(ii) inserted (1.4.2006) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199(1), **Sch. 11 para. 46(3)(c)**; S.I. 2005/2925 arts. 1(3), {10}
- F87** S. 17D(2): para. (a) and following words in definition of "qualifying body" repealed (22.12.2010) by [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), ss. 41, 43(2), **Sch. 2 para. 6(1)(f)(i)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2**, Sch. 2
- F88** S. 17D(2): words in para. (b) of definition of "qualifying body" repealed (22.12.2010) by [Tobacco and Primary Medical Services \(Scotland\) Act 2010 \(asp 3\)](#), ss. 41, 43(2), **Sch. 2 para. 6(1)(f)(ii)**; S.S.I. 2010/77, **art. 2**; S.S.I. 2010/372, **art. 2**, Sch. 2
- F89** S. 17D(2): definition of "qualifying medical practitioner" repealed (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(d)(v)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F90** S. 17D(2) words in definitions of "section 17C employee" and "section 28C employee" substituted (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(d)(vi)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F91** Word in s. 17D(2) repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), ss. 8, 9(1), **Sch. para. 1(3)**; S.S.I. 2004/58, **art. 2(3)**
- F92** S. 17D(2): definitions of "section 28K contract" and "section 28Q contract" inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(d)(vii)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F93** S. 17D(3) inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), **ss. 2(3)(e)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.

Marginal Citations

M16 1977 c. 49.

M17 1984 c. 24.

[^{F94}17E Personal medical or dental services: regulations.

- (1) The Secretary of State may make regulations with respect to the provision of services in accordance with section 17C arrangements.
- (2) The regulations must—
 - (a) include provision for participants other than Health Boards to withdraw from section 17C arrangements if they wish to do so;
 - (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by ^{F95}... dental practitioners performing personal dental services, in accordance with section 17C arrangements.

In paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

- (3) The regulations may, in particular—

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- (a) provide that section 17C arrangements may be made only in prescribed circumstances;
- (b) provide that section 17C arrangements may be made only in prescribed areas;
- (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with section 17C arrangements;
- ^{F96}(ca) [impose conditions (including conditions as to qualifications and experience) to be satisfied by persons performing primary medical services in accordance with section 17C arrangements;
- (cb) provide for the circumstances in which a person providing primary medical services under section 17C arrangements—
 - (i) must, or may, accept a person as a patient to whom such services are provided under section 17C arrangements;
 - (ii) may decline to accept a person as such a patient;
 - (iii) may terminate responsibility for a patient;
- (cc) make provision as to the right of patients to choose the persons from whom they are to receive primary medical services under section 17C arrangements;]
- (d) require details of section 17C arrangements to be published;
- (e) make provision with respect to the variation and termination of section 17C arrangements;
- ^{F97}(f)
- ^{F97}(g)
- (h) provide for parties to section 17C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 17A;
- (i) provide for directions, as to payments, made under section 17A(8) (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in like manner as extract registered decrees arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
- (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 17C(1) under which personal dental services are provided;
- (k) authorise Health Boards to make payments of financial assistance for prescribed categories of preparatory work undertaken—
 - (i) in connection with preparing proposals for section 17C arrangements;
or
 - (ii) in preparation for the provision of services under proposed section 17C arrangements.

^{F98}(3A) [The regulations may also require payments to be made as respects the provision or performance of primary medical services under section 17C arrangements in accordance with directions given for the purpose by the Scottish Ministers.

(3B) A direction under subsection (3A) may make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.

(3C) The regulations may also include provision requiring a Health Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person providing services under section 17C arrangements who so requests.

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- (3D) The regulations may make provision for the resolution of disputes as to the terms of any proposed section 17C arrangements for the provision of primary medical services, including, without prejudice to that generality, provision for—
- (a) the referral of the terms of the proposed arrangements to the Scottish Ministers; and
 - (b) the Scottish Ministers, or a person or panel of persons appointed by them, to determine the terms on which the arrangements may be made.]
- F⁹⁹(4)
- F¹⁰⁰(5)
- F¹⁰¹(6)
- F¹⁰⁰(7)
- (8) The power to make provision under this section of the kind mentioned in subsection (3) (j) includes power—
- (a) to authorise or require the Dental Practice Board to perform on behalf of a Health Board functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Dental Practice Board by the Health Board in accordance with a power conferred by the regulations;
 - (b) to provide that functions conferred by the regulations are only to be exercised by the Dental Practice Board in accordance with directions of the Secretary of State;
 - (c) to require information for the purpose of performing any functions conferred or imposed on the Dental Practice Board under this section.
- (9) In this Act “section 17C arrangements” means arrangements for the provision of services made under section 17C.]

Textual Amendments

- F94** S. 17E inserted (5.3.2001 for certain purposes, otherwise prosp.) by 1997 c. 46, ss. 22(2), 41(3) (as amended by [The General and Specialist Medical Practice \(Education, Training and Qualifications\) Order 2003 \(S.I. 2003/1250\)](#), art. 31(5), [Sch. 9 para. 6\(c\)\(ii\)](#) (coming into force in accordance with art. 1(2)(3) of the amending S.I.); S.S.I. 2001/58, [art. 2](#)
- F95** Words in s. 17E(2)(b) repealed (13.2.2004 for certain purposes, otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(4\)\(a\)](#), 9(1); S.S.I. 2004/58, [art. 2\(1\)\(3\)](#), Sch.
- F96** S. 17E(3)(ca)-(cc) inserted (13.2.2004 for certain purposes, otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(4\)\(b\)\(i\)](#), 9(1); S.S.I. 2004/58, [art. 2\(1\)\(3\)](#), Sch.
- F97** S. 17E(3)(f)(g) repealed (13.2.2004 for certain purposes, otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(4\)\(b\)\(ii\)](#), 9(1); S.S.I. 2004/58, [art. 2\(1\)\(3\)](#), Sch.
- F98** S. 17E(3A)-(3D) inserted (13.2.2004 for certain purposes, otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(4\)\(c\)](#), 9(1); S.S.I. 2004/58, [art. 2\(1\)\(3\)](#), Sch.
- F99** S. 17E(4) repealed (1.10.1999) by 1999 c. 8, s. 65, Sch. 4 para. 47, [Sch. 5](#); S.S.I. 1999/90, art. 2, [Schs. 1, 2](#)
- F100** S. 17E(5)(7) repealed (13.2.2004 for certain purposes, otherwise 1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(4\)\(d\)](#), 9(1); S.S.I. 2004/58, [art. 2\(1\)\(3\)](#), Sch.

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F101 S. 17E(6) omitted (30.9.2005 as notified in the London Gazette dated 26.8.2005) by virtue of [The General and Specialist Medical Practice \(Education, Training and Qualifications\) Order 2003 \(S.I. 2003/1250\)](#), arts. 1(2)(3), 31(5), **Sch. 9 para. 3(a)**

17EA Services lists

F102

Textual Amendments

F102 S. 17EA repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), ss. 8, 9(1), **Sch. para. 1(4)**; S.S.I. 2004/58, **art. 2(3)**

17EB Application for inclusion in services list

F103

Textual Amendments

F103 S. 17EB repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), ss. 8, 9(1), **Sch. para. 1(4)**; S.S.I. 2004/58, **art. 2(3)**

PROSPECTIVE

[^{X1}17F Lists of persons performing personal dental services

- (1) Regulations may provide that a person may not perform personal dental services under section 17C arrangements or a pilot scheme with a Health Board unless his name is included in a list maintained under the regulations by the Board.
- (2) Regulations under subsection (1) may make provision in relation to such lists and in particular as to—
 - (a) the preparation, maintenance and publication of a list;
 - (b) eligibility for inclusion in a list;
 - (c) applications for inclusion (including provision for the procedure for applications to be made and dealt with and the documents to be supplied on application);
 - (d) the grounds on which an application for inclusion must be granted or refused;
 - (e) requirements with which a person included in a list must comply (including requirements as to standards of performance and patient care and as to declarations, consents or undertakings);
 - (f) suspension or removal from a list (including the grounds for and consequences of suspension or removal);
 - (g) circumstances in which a person included in a list may not withdraw from it;
 - (h) payments to be made by a Health Board in respect of a person suspended from a list (including provision for the amount of, or the method of calculating, the payment to be determined by the Scottish Ministers);
 - (i) criteria to be applied in making decisions under the regulations;

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- (j) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references to the Tribunal, including in particular the disclosure of information about any such matter by a Health Board to the Scottish Ministers and by the Scottish Ministers to a Health Board.]

Editorial Information

- X1** This is a new instance of s. 17F, inserted by [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), [ss. 18, 43\(3\)](#). A separate instance of s. 17F was inserted (1.4.1998) by [National Health Service \(Primary Care\) Act 1997 \(c. 46\)](#), [s. 23\(2\)](#); [S.I. 1998/631](#), [art. 2\(a\)](#), [Sch. 1](#), and repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 8, 9\(1\)](#), [Sch. para. 1\(5\)](#); [S.S.I. 2004/58](#), [art. 2\(3\)](#)

[^{F104}17G Right to choose dental practitioner.

- (1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.
- (2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.
- (3) The regulations may, in particular, provide that the right to choose a dental practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.
- (4) In this section “primary dental services” means dental services which are—
 - (a) provided, in accordance with section 17C arrangements, as personal dental services; or
 - (b) provided under Part II as general dental services.]

Textual Amendments

- F104** [S. 17G](#) inserted (1.10.1998) by [1997 c. 46](#), [s. 24\(2\)](#); [S.I. 1998/1998](#), [art. 2\(2\)\(a\)](#), [Sch. 1](#)

17H Immunisation.

^{F105}

Textual Amendments

- F105** [S. 17H](#) repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), [ss. 2\(5\), 9\(1\)](#); [S.S.I. 2004/58](#), [art. 2\(3\)](#)

[^{F106}17I 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 [^{F107}primary medical services] or personal dental services in accordance with section 17C arrangements,

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he may make the accommodation available on such terms as he thinks fit to persons providing those services.]

Textual Amendments

F106 S. 17I inserted (1.4.1998 for certain purposes, otherwise *prosp.*) by 1997 c. 46, s. 41(1), **Sch. 2 Pt. I para. 38**; S.I. 1998/631, arts. 2(b), 3(3), **Sch. 2**

F107 Words in s. 17I substituted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 1(6)**; S.S.I. 2004/58, **art. 2(3)**

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