



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART II

PROVISION OF SERVICES

General medical services

19 Arrangements and regulations for general medical services.

- (1) It shall be the duty of every Health Board, in accordance with regulations, to make as respects their area arrangements with medical practitioners for the provision by them of personal medical services for all persons in the area who wish to take advantage of the arrangements; and the services provided in accordance with the arrangements are in this Act referred to as “general medical services”.
- (2) Regulations may make provision for defining 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 securing a right to any person to choose or to change, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner who is to give the attendance 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 aforesaid 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;

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- (d) for the issue to patients or their personal representatives by medical practitioners providing such services as aforesaid 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 area of the name of a medical practitioner in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide general medical services for persons in that area.
 - [^{F1}(f) for the making of arrangements for the temporary provision of general medical services in an area;
 - (g) for the circumstances in which a name added to the list by virtue of subsection (5) below may be removed from it.]
- [^{F2}(3) The remuneration to be paid under arrangements under this Part 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 the practitioner has undertaken to provide such services.]
- [^{F3}(4) 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.]
- [^{F4}(5) The persons with whom arrangements for the temporary provision of general medical services in an area may be made by virtue of regulations under subsection (2) include medical practitioners who are not on the list of medical practitioners providing such services in the area, 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 lists.
- (6) 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
 - (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.
- (7) 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 [^{F5}section 37(1) or (2) of the Medical Act 1983] (unfitness to practise by reason of physical or mental condition);
 - (b) by an Order of that Committee under [^{F5}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 [^{F5}section 42(3)(b)] of that Act,

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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 that period of suspension.]

[^{F6}(8) In relation to a medical practitioner, any reference in this Act to the relevant Health Board shall be construed as follows—

- (a) if he practises in partnership with other medical practitioners, the relevant Health Board is the Board on whose medical list the members of the practice are included and, if some are included on one Board's medical list and some on another's or if any of the members is included on the medical lists of two or more Boards, the relevant Health Board is the Board in whose area resides the largest number of individuals who are on the lists of patients of members of the practice; and
- (b) in any other case, the relevant Health Board is the Board on whose medical list he is included and, if there is more than one, the Board in whose area resides the largest number of individuals who are on his list of patients.]

Textual Amendments

- F1** S. 19(2)(f)(g) inserted by [Health and Social Services and Social Security Adjudications Act 1983](#) (c. 41, SIF 113:3), s. 14(2), **Sch. 7 para. 2(a)**
- F2** S. 19(3) repealed(*prosp.*) by [National Health Service Act 1966](#) (c. 8), **s. 10(3)** (as substituted by Sch. 16 para. 22(b) of this Act), 12(3)
- F3** S. 19(4) added by [Health Services Act 1980](#) (c. 53, SIF 113:2), **s. 7**
- F4** S. 19(5)–(7) inserted by [Health and Social Services and Social Security Adjudications Act 1983](#) (c. 41, SIF 113:3), s. 14(2), **Sch. 7 para. 2(b)**
- F5** Words substituted by [Medical Act 1983](#) (c. 54, SIF 83:1), ss. 54, 56(1), **Sch. 5 para. 17(a)**
- F6** S. 19(8) inserted by [National Health Service and Community Care Act 1990](#) (c. 19, SIF 113:2), **s. 37**

Modifications etc. (not altering text)

- C1** S. 19 extended by [Health and Medicines Act 1988](#) (c. 49, SIF 113:2), **s. 17(1)**

VALID FROM 01/04/2004

19A Medical lists.

^{F7}

Textual Amendments

- F7** Ss. 19-23 repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004](#) (asp 1), ss. 8, 9(1), **Sch. para. 1(7); S.S.I. 2004/58, art. 2(3)**

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VALID FROM 01/04/2004

19B Vacancies for medical practitioners.

^{F8}

Textual Amendments

F8 Ss. 19-23 repealed (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), ss. 8, 9(1), [Sch. para. 1\(7\)](#); S.S.I. 2004/58, [art. 2\(3\)](#)

20 Applications to provide general medical services.

(1) [^{F9}Subject to subsection (1A) below] all applications made in the prescribed manner to a Health Board for inclusion in a list kept by that Board of the names of medical practitioners undertaking to provide general medical services for persons in the Board's area shall be referred by the Board to the Medical Practices Committee and ^{F10} any medical practitioner whose application is granted by that Committee shall [^{F11}subject to the provisions of this Part of this Act relating to the disqualification of practitioners] be entitled to the inclusion of his name in the list.

[^{F12}(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 Health Board referred to the Medical Practices Committee unless he satisfies the Board 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 Board's area; and where a Board is not so satisfied with respect to any applicant the Board shall not refer his application to the Committee.]

(2^{F13}

Textual Amendments

F9 Words inserted by [S.I. 1981/432, art. 4\(1\)\(a\)](#)

F10 Words repealed by [Health Services Act 1980 \(c. 53\), Sch. 7](#)

F11 Words inserted by [Health Services Act 1980 \(c. 53\), Sch. 6 para. 3](#)

F12 [S. 20\(1A\)](#) inserted by [S.I. 1981/432, art. 4\(1\)\(b\)](#)

F13 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)

C2 [S. 20\(1\)](#) excluded (31.3.1995) by [S.I. 1995/416, reg. 24\(22\)](#)

C3 [S. 20\(1A\)](#) modified (31.3.1995) by [S.I. 1995/416, reg. 24\(21\)](#)

21 Requirement of suitable experience.

(1) Where the Secretary of State has made regulations for the purposes of this section, and after a day prescribed as the appointed day for those purposes—

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- (a) the Medical Practices Committee shall refuse any application under section 20 made after that day if the medical practitioner is not suitably experienced; and
 - (b) a Health Board shall not arrange under section 19 with a medical practitioner for him to provide general medical services for persons in its area unless the Medical Practices Committee have granted an application by him for the inclusion of his name in the list kept by the Board of medical practitioners undertaking to provide general medical services for persons in that area.
- (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 22 exempt from the need to have acquired that experience,
- and “medical experience” includes hospital experience in any speciality.

Modifications etc. (not altering text)

- C4** S. 21 excluded (31.3.1995) by S.I. 1995/416, **reg. 24(22)**
S. 21 applied (28.11.1997) by 1997 c. 46, s. 2(4); S.I. 1997/2620, **art. 2(2)**
- C5** 15.2.1981 appointed under s. 21(1) by S.I. 1980/30, **reg. 3**
- C6** S. 21(2) applied (with modifications) (1.4.1998) by 1997 c. 46, s. 11(5)(6); S.I. 1998/631, **art. 2(1)(a), Sch. 1**

22 Regulations as to section 21.

- (1) Regulations may for the purposes of section 21 provide—
- (a) for prescribing the medical experience needed to satisfy paragraph (a) of section 21(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 21(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

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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 21 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 21(1) applies;

“the prescribed experience” means the medical experience for the time being prescribed for the purposes of paragraph (a) of section 21(2).

- (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 areas 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.

Subordinate Legislation Made

P1 S. 22: s. 105(7) (with ss. 22 and 108(1)) power exercised by S.I. 1991/576

P2 S. 22: for previous exercises of this power see Index to Government Orders.

Modifications etc. (not altering text)

C7 S. 22 applied (with modification) (1.4.1998) by 1997 c. 46, s. 11(5)(6); S.I. 1998/631, art. 2(1)(a), Sch. 1

23 Distribution of general medical services.

- (1) The Medical Practices Committee may refuse any application under section 20 on the ground that the number of medical practitioners undertaking to provide general medical services in the area of the Health Board concerned or in part of that area is already adequate.

[^{F14}(1A) The Secretary of State may by order specify the maximum number of medical practitioners with whom, in any year, all Health Boards taken as a whole may enter into arrangements under section 19 for the provision of general medical services.

- (1B) An order under subsection (1A) 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 20 in order to secure that any maximum number specified in the order is not exceeded.]

- (2) [^{F15}Subject to subsection (2A)] if in the opinion of the Medical Practices Committee additional practitioners are required for any area or part, 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.

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[^{F16}(2A) If, in the opinion of the Medical Practices Committee, a medical practitioner is required for a particular part of the area of a Health Board, then, in such circumstances as may be prescribed,—

- (a) the Board 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
- (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) he shall remit the application to the Board for reconsideration.]

(3) Before selecting any persons under subsection (2) the Medical Practices Committee shall consult the Health Board concerned, and that Board shall consult the area medical committee (if any) for their area before expressing their views on the persons to be selected.

(4) Except as provided in subsections (1) to (3), or as required by section 21, the Medical Practices Committee shall not refuse any application under section 20, but

- [^{F17}(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
- (b) the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part of parts of the area of the Health Board as the Committee may specify.[^{F18}and an order under subsection (1A) 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)]

(5) A medical practitioner who has made an application under section 20 which has been refused [^{F19}by the Medical Practices Committee] or has been granted [^{F19}by that Committee] subject to [^{F20}such conditions][^{F20}conditions under paragraph (a) or (b) of subsection (4)] may appeal to the Secretary of State [^{F21}; and the Secretary of State may, on any such appeal, direct the Medical Practices Committee to grant the application either unconditionally or subject to such conditions as the Secretary of State may specify][^{F21}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].

[^{F21}This subsection does not apply where an application has been refused under paragraph (a) of section 21(1) [^{F22}or under section 8 of the Health and Medicines Act 1988 (persons over retiring age) and regulations under that section].]

(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.

[^{F23}(7) If the Secretary of State grants an appeal to which subsection (6) above relates, he may direct either that the application—

- (a) shall be granted in addition to those already granted; or
- (b) shall be granted instead of such one of those applications as he may specify.

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In the latter case, he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question.]

- (8) ^{F24} The Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Secretary of State shall on an appeal in any such case] ^{F24} In any case where medical practitioners have to be selected from a number of applicants, the Medical Practices Committee or, where subsection (2A) applies, the Health Board shall—
- (a) have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned and to 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.

Textual Amendments

- F14** S. 23(1A)(1B) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(1)**, 67(2)
- F15** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(2)**, 67(2)
- F16** S. 23(2A) inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(2)**, 67(2)
- F17** S. 23(4)(a) and “(b)” following it inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(3)**, 67(2)
- F18** Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(3)**, 67(2)
- F19** Words inserted by S.I. 1981/432, **art. 4(2)**
- F20** Words “conditions under paragraph (a) or (b) of subsection (4)” substituted (*prosp.*) for words “such conditions” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(4)**, 67(2)
- F21** Words commencing “on a point of law” substituted (*prosp.*) for words following “Secretary of State” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(4)**, 67(2)
- F22** Words added by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 25(2), **Sch. 2 para. 10**
- F23** S. 23(7) repealed (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(5)**, 66(2), 67(2), **Sch. 10**
- F24** Words commencing “In any case where” substituted (*prosp.*) for words commencing “The Medical Practices Committee” by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **ss. 39(6)**, 67(2)

24 Regulations for Medical Practices Committee.

Regulations may make provision 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—

- (a) for requiring Health Boards 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 areas and the different parts of those areas;
 - (ii) the occurrence of any vacancies in the lists of medical practitioners kept by them under this Part; and

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- (iii) the need for filling such vacancies;
- (b) for prescribing the procedure for—
 - (i) the determination of applications by the Medical Practices Committee;
 - (ii) the making and determination of appeals to the Secretary of State under section 23 ^[F25]and, where such an appeal is allowed, the reconsideration of any application]; and
 - (iii) requiring Health Boards and applicants to be informed of the decisions of the Committee and the Secretary of State.

[^{F26}(2) Regulations under this section may make provision for, and in connection with, the variation of any condition imposed under subsection (4) or (5) of section 23 including provision for appeals to the Secretary of State on a point of law.]

Textual Amendments

F25 Words inserted (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 39(7)(a), 67(2)

F26 S. 24(2) added (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 39(7)(b), 67(2)

VALID FROM 05/03/2001

[^{F27}24A Liabilities and obligations in relation to deputies.

- (1) Regulations may make provision with respect to the liabilities and obligations of—
 - (a) a Part II practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a Part I practitioner deputises, or is engaged to deputise, for him; or
 - (b) a Part II practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a Part I practitioner, in connection with that practitioner's obligation to perform personal medical services in accordance with section 17C arrangements.
- (2) The regulations may, in particular—
 - (a) modify any liabilities or obligations which would otherwise be applicable by virtue of this Part;
 - (b) apply (with or without modifications) any provision made by or under this Part (including any provision so made by virtue of section 17 of the ^{M1}Health and Medicines Act 1988).
- (3) In subsection (1)—
 - “Part I practitioner” means a medical practitioner who performs personal medical services in accordance with section 17C arrangements; and
 - “Part II practitioner” means a medical practitioner who provides general medical services.]

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Textual Amendments

F27 S. 24A inserted (5.3.2001 for certain purposes only and otherwise *prosp.*) by 1997 c. 46, ss. 25(2), 41(3); S.S.I. 2001/58, art. 2

Marginal Citations

M1 1988 c. 49.

VALID FROM 28/02/2003

[^{F28}24B Supplementary lists

- (1) Regulations may make provision for the preparation and publication by each Health Board of one or more lists of medical practitioners approved by the Board to assist in the provision of general medical services.
- (2) Such a list is in this Act referred to as a “supplementary list”.
- (3) A medical practitioner whose name is not included in the Board’s medical list or services list may not assist in the provision of general medical services in the Board’s area unless his name is included in the Board’s supplementary list.
- (4) The regulations may (either or both)—
 - (a) make provision for the application (with such modifications as the Scottish Ministers think fit) to supplementary lists or to persons who are, have been or seek to be included in a supplementary list, of;
 - (b) in relation to such lists and persons, make provision analogous to any provision made by,
 any regulations made under this Act in relation to medical lists or to persons who are, have been or seek to be included in a medical list.]

Textual Amendments

F28 S. 24B inserted (28.2.2003 in regard to s. 24B(1)(2)(4) and 31.5.2003 in regard to s. 24B(3)) by 2002 asp 5, ss. 18(2), 27(2); S.S.I. 2003/62, art. 2(1)(b)(2) (with savings for effects of 2003 asp 5, s. 18(2) by S.S.I. 2003/63, art. 2)

VALID FROM 28/02/2003

[^{F29}24C Application for inclusion in supplementary list

- (1) No medical practitioner—
 - (a) 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 a Health Board’s supplementary list unless he satisfies the Board that he has that knowledge of English which, in the interests of himself and his patients, is necessary for him to assist in the provision of general medical services in the Board’s area; or

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(b) shall be so entitled unless he is suitably experienced.

(2) For the purposes of subsection (1)(b) a medical practitioner is “suitably experienced” if, but only if, he either—

(a) has acquired such medical experience as may be prescribed; or

(b) is by virtue of regulations made under this subsection, being regulations analogous to those made under section 22, exempt from the need to have acquired that experience,

and “medical experience” includes hospital experience in any speciality.

(3) Subsections (2) and (3) of section 22 apply in relation to regulations under subsection (2) above as they apply in relation to regulations under that section except that, for that purpose, the reference in subsection (2) of that section to the “prescribed experience” shall be construed as a reference to the medical experience prescribed by virtue of paragraph (a) of subsection (2) above.]

Textual Amendments

F29 S. 24C inserted (28.2.2003) by 2002 asp 5, ss. 18(2), 27(2); S.S.I. 2003/62, art. 2(1)(b) (with savings for effects of 2003 asp 5, s. 18(2) by S.S.I. 2003/63, art. 2)

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