



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART I

ORGANISATION

Co-operation and assistance

[^{F1F2F3}17D] Persons with whom agreements may be made.

- (1) A Health Board may make an agreement under section 17C only with one or more of the following—
- (a) an NHS trust;
 - [^{F4}(b) in the case of an agreement under which primary medical services are provided—
 - (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 [^{F5}Article 57 contract];
 - (v) a person who is providing primary medical services in accordance with section 17C [^{F6}arrangements,] section 28C arrangements or ^{F7} . . . 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;

Status: Point in time view as at 01/02/2006. This version of this provision has been superseded.

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- (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;]
- (c) in the case of an agreement under which personal dental services are provided—
 - (i) a qualifying dental practitioner;
 - (ii) an individual who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;
- (d) an NHS employee, a section 17C employee [^{F8}, a section 28C employee or (in the case of an agreement under which primary medical services are provided) an Article 15B employee];
- (e) a qualifying body.

[The power under subsection (1) to make an agreement with a person or, as the case ^{F9}(1A) may be, an individual falling within paragraph (b)(iii) to (ix), or (in the case of an agreement under which primary medical services are provided) paragraph (d) or (e), of that subsection is subject to such conditions as may be prescribed.

(1B) 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 the membership of the partnership.]

(2) In this section—

[^{F10}“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 ^{M1}National Health Service Act 1977;

[^{F11}“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;

[^{F12}“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 [^{F13}or, in relation to paragraph (b) below, Northern Ireland], is employed by—

- (a) an NHS trust;
- (b) [^{F14}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

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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 36(1)(a) of the 1977 Act; or
 - (ii) a dental practitioner who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraphs (a) to (d) of subsection (1); and also
- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the ^{M2}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;

^{F15}

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

- (a) [^{F16}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; ^{F17} . . .

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

- (a) [^{F16}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

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[^{F18}“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 ^{F19}(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

- F1** 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.)
- F2** 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**
- F3** 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.)
- F4** 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.
- F5** 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)}
- F6** 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)}
- F7** 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)}
- F8** 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.
- F9** S. 17D(1A)(1B) inserted (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 2(3)(c)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F10** 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.
- F11** 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.
- F12** 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)}
- F13** 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.

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- F14** 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.](#)
- F15** 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.](#)
- F16** 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.](#)
- F17** 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\(3\)](#)
- F18** 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.](#)
- F19** 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

M1 1977 c. 49.

M2 1984 c. 24.

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