



National Health Service (Primary Care) Act 1997

1997 CHAPTER 46

PART II

PRIMARY CARE

Personal medical or dental services

22 Supplementary regulations.

(1) In the 1977 Act, after section 28D, insert—

“28E 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 28C arrangements.
- (2) The regulations must—
 - (a) include provision for participants other than [^{F1}Strategic Health Authorities and] Health Authorities to withdraw from section 28C arrangements if they wish to do so;
 - (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and dental practitioners performing personal dental services, in accordance with section 28C arrangements.

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

(3) The regulations may, in particular—

Status: Point in time view as at 01/04/2004. This version of this provision has been superseded.

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- (a) provide that section 28C arrangements may be made only in prescribed circumstances;
 - (b) provide that section 28C 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 28C arrangements;
 - (d) require details of section 28C arrangements to be published;
 - (e) make provision with respect to the variation and termination of section 28C arrangements;
 - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with section 28C arrangements from providing general medical services;
 - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
 - (h) provide for parties to section 28C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 4 of the ^{M1}National Health Service and Community Care Act 1990;
 - (i) provide for directions, as to payments, made under section 4(7) of the Act of 1990 (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;
 - (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 28C(1) under which personal dental services are provided;
 - (k) authorise [^{F2}Strategic Health Authorities and] Health Authorities to make payments of financial assistance for prescribed categories of preparatory work undertaken—
 - (i) in connection with preparing proposals for section 28C arrangements; or
 - (ii) in preparation for the provision of services under proposed section 28C arrangements.
- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with section 28C arrangements, and
 - (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Secretary of State that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.
- For the purposes of this subsection “fund-holding status” has such meaning as may be prescribed.
- (5) The Secretary of State must—
- (a) consider whether section 28C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in England or in Wales;

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- (b) if he thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
 - (c) if he thinks that it is necessary, include such provisions in the regulations.
 - (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 32.
 - (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
 - (a) requiring (except in prescribed circumstances) [^{F3}Primary Care Trusts and] Health Authorities to remove from their medical lists persons who are performing personal medical services in accordance with section 28C arrangements or corresponding services under section 17C of the ^{M2}National Health Service (Scotland) Act 1978;
 - (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
 - (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
 - (d) as to conditions to be attached to entries in medical lists;
 - (e) conferring powers of disqualification on the [^{F4}Family Health Services Appeal Authority constituted under section 49S].
 - (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 [^{F5}Strategic Health Authority or] Health Authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the [^{F5}Strategic Health Authority or] Health Authority 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 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 Board under this section.”
- (2) In the 1978 Act, after section 17D, insert—

“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;

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- (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and 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—
 - (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;
 - (d) require details of section 17C arrangements to be published;
 - (e) make provision with respect to the variation and termination of section 17C arrangements;
 - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with section 17C arrangements from providing general medical services;
 - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
 - (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 [Strategic Health Authorities and] 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.
- (4) The regulations must include provision for a medical practitioner who—
 - (a) has provided or performed personal medical services in accordance with section 17C arrangements, and
 - (b) in contemplation of doing so, gave up fund-holding status,

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to be allowed to return immediately to fund-holding status on satisfying the Secretary of State that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.

For the purposes of this subsection “fund-holding status” has such meaning as may be prescribed.

- (5) The Secretary of State must—
- (a) consider whether section 17C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in Scotland;
 - (b) if he thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
 - (c) if he thinks that it is necessary, include such provisions in the regulations.
- (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 22.
- (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) Health Boards to remove from their medical lists persons who are performing personal medical services in accordance with section 17C arrangements or corresponding services under section 28C of the ^{M3}National Health Service Act 1977;
 - (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
 - (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
 - (d) as to conditions to be attached to entries in medical lists;
 - (e) conferring powers of disqualification on the Tribunal constituted under section 29.
- (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.

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(9) In this Act “section 17C arrangements” means arrangements for the provision of services made under section 17C.”

Textual Amendments

- F1** S. 22: words in s. 28E(2)(a) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(a)**; S.I. 2002/2478, **art. 3(1)(c)**
- F2** S. 22: words in s. 28E(3)(k) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(b)**; S.I. 2002/2478, **art. 3(1)(c)**
- F3** S. 22: words in s. 28E(7)(a) to be inserted into the 1977 Act inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 8(c)**; S.I. 2002/2478, **art. 3(1)(c)**
- F4** S. 22: words in s. 28E(7)(e) to be inserted into the 1977 Act substituted (1.10.2001 (E.) for specified purposes and 1.12.2001 (E.) otherwise subject to art. 4(2) of the commencing S.I.) by 2001 c. 15, s. 27(5)(a) (with ss. 64(9), 65(4)); S.I. 2001/3294, **art. 4, Sch.**
- F5** S. 22: words in s. 28E(8)(a) inserted (1.10.2002 for E.W.) by 2002 c. 17, ss. 4(3), 42(2), **Sch. 3 Pt. 1 para. 8(d)**; S.I. 2002/2478, **art. 3(1)(c)**

Commencement Information

- I1** S. 22 partly in force; s. 22 not in force at Royal Assent see s. 41; s. 22(2) in force for certain purposes at 5.3.2001 (S.) by S.I. 2001/58, **art. 2**
- I2** S. 22(1) in force at 1.3.2004 for E. by S.I. 2004/287, **art. 2(1)**

Marginal Citations

- M1** 1990 c. 19.
- M2** 1978 c. 29.
- M3** 1977 c. 49.

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