



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 4

DENTAL AND MEDICAL SERVICES

Primary dental services

170 Provision of primary dental services

In the 1977 Act, after section 16C insert—

“Functions of Primary Care Trusts and Local Health Boards

16CA Primary dental services

- (1) Each Primary Care Trust and Local Health Board must, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary dental services within its area, or secure their provision within its area.
- (2) A Primary Care Trust or Local Health Board may (in addition to any other power conferred on it) provide primary dental services itself (whether within or outside its area).
- (3) Each Primary Care Trust and Local Health Board must publish information about such matters as may be prescribed in relation to the primary dental services for which it makes provision under this Part.
- (4) A body on which functions are conferred under this section must co-operate with any other such body in the discharge of their respective functions relating to the provision of primary dental services under this Part.

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary dental services for the purposes of this Part.
- (6) Regulations under subsection (5) may in particular describe services by reference to the manner or circumstances in which they are provided.”

Commencement Information

I1 S. 170 partly in force; s. 170 in force at Royal Assent for certain purposes, see s. 199(1)(4)

171 Dental public health

(1) In the 1977 Act, after section 16CA (as inserted by section 170 above) insert—

“16CB Dental public health

- (1) A Primary Care Trust shall have such functions in relation to dental public health in England as may be prescribed.
- (2) A Local Health Board shall have such functions in relation to dental public health in Wales as may be prescribed.
- (3) The National Assembly for Wales shall have such functions in relation to dental public health in Wales as may be prescribed.
- (4) The functions of a Primary Care Trust under this section may be discharged—
- by the Trust itself;
 - by the Trust and one or more other Primary Care Trusts acting jointly; or
 - by any other person or body in accordance with arrangements made by the Trust.
- (5) The functions of a Local Health Board under this section may be discharged—
- by the Board itself;
 - by the Board and one or more other Local Health Boards acting jointly; or
 - by any other person or body in accordance with arrangements made by the Board.”
- (2) Section 5(1A) of the 1977 Act shall cease to have effect.

Commencement Information

I2 S. 171 partly in force; s. 171 in force at Royal Assent for certain purposes, see s. 199(1)(4)

172 General dental services contracts

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

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

“General dental services contracts

28K General dental services contracts: introductory

- (1) A Primary Care Trust or Local Health Board may enter into a contract under which primary dental services are provided in accordance with the following provisions of this Part.
- (2) A contract under this section is called in this Act a “general dental services contract”.
- (3) Subject to any provision made by or under this Part, a general dental services contract may make such provision as may be agreed between the Primary Care Trust or Local Health Board and the contractor in relation to—
 - (a) the services to be provided under the contract (which may include services which are not primary dental services),
 - (b) remuneration under the contract, and
 - (c) any other matters.
- (4) In this Part, “contractor”, in relation to a general dental services contract, means any person entering into the contract with the Primary Care Trust or Local Health Board.

28L Requirement to provide certain primary dental services

- (1) A general dental services contract must require the contractor or contractors to provide, for his or their patients, primary dental services of such descriptions as may be prescribed.
- (2) Regulations under subsection (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

28M Persons eligible to enter into GDS contracts

- (1) A Primary Care Trust or Local Health Board may, subject to such conditions as may be prescribed, enter into a general dental services contract with—
 - (a) a dental practitioner;
 - (b) a dental corporation;
 - (c) two or more individuals practising in partnership where the conditions in subsection (2) are satisfied.
- (2) The conditions referred to in subsection (1)(c) in relation to a partnership are that—
 - (a) at least one partner is a dental practitioner, and
 - (b) any partner who is not a dental practitioner is either—
 - (i) an NHS employee,
 - (ii) a section 28C employee, section 17C employee or Article 15B employee,
 - (iii) a health care professional who is engaged in the provision of services under this Act, or

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- (iv) an individual falling within section 28D(1)(bc) above.
- (3) Regulations may make provision as to the effect, in relation to a general dental services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.

- (4) In this section—

“dental corporation” means a body corporate which, in accordance with the provisions of Part 4 of the Dentists Act 1984, is entitled to carry on the business of dentistry;

“health care professional” means a person who is a member of a profession regulated by a body mentioned (at the time the contract in question is entered into) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002; and

“NHS employee”, “section 28C employee”, “section 17C employee” and “Article 15B employee” have the same meanings as in section 28D above.

28N GDS contracts: payments

- (1) The appropriate authority may give directions as to payments to be made under general dental services contracts.
- (2) A general dental services contract must require payments to be made under the contract in accordance with directions for the time being in force under this section.
- (3) Without prejudice to the generality of the power under subsection (1), a direction under that subsection may—
- (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
 - (b) provide for payments to be made by reference to—
 - (i) any scheme or scale specified in the direction, or
 - (ii) a determination made by any person in accordance with factors specified in the direction;
 - (c) provide for the making of payments in respect of individual practitioners;
 - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Primary Care Trust or Local Health Board only if it is satisfied as to certain conditions);
 - (e) 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.
- (4) Before giving a direction under subsection (1), the appropriate authority—
- (a) must consult any body appearing to the authority to be representative of persons to whose remuneration the direction would relate, and
 - (b) may consult such other persons as the authority thinks appropriate.
- (5) Section 18(1) and (3)(b) above apply in relation to directions under this section.

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (6) References in this section to payments include fees, allowances, reimbursements, loans and repayments.
- (7) In this section “appropriate authority” means—
 - (a) the Secretary of State, in relation to a contract made by a Primary Care Trust;
 - (b) the National Assembly for Wales, in relation to a contract made by a Local Health Board.

28O GDS contracts: other required terms

- (1) A general dental services contract must contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).
- (2) Regulations under subsection (1) may in particular make provision as to—
 - (a) the manner in which, and standards to which, services are to be provided;
 - (b) the persons who perform services;
 - (c) the persons to whom services are to be provided;
 - (d) the variation of contract terms (other than terms required by or under this Part);
 - (e) rights of entry and inspection (including inspection of clinical records and other documents);
 - (f) the circumstances in which, and the manner in which, the contract may be terminated;
 - (g) enforcement;
 - (h) the adjudication of disputes.
- (3) Regulations under subsection (2)(d) may make provision as to the circumstances in which a Primary Care Trust or Local Health Board may impose a variation of contract terms.
- (4) Regulations under subsection (1) must make provision as to the right of patients to choose the persons from whom they are to receive services.

28P GDS contracts: disputes and enforcement

- (1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general dental services contract.
- (2) Regulations under subsection (1) may make provision—
 - (a) for the referral of the terms of the proposed contract to the Secretary of State or National Assembly for Wales; and
 - (b) for the Secretary of State or Assembly, or a person appointed by him or it, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general dental services contract to be regarded as a health service body for any purposes of section 4 of the National Health Service and Community Care Act 1990, in circumstances where he or they so elect.

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (4) Regulations under subsection (3) may include provision as to the application of section 4 of that Act in cases where—
- (a) persons practising in partnership elect to become a health service body; and
 - (b) there is a change in the membership of the partnership.
- (5) Where—
- (a) by virtue of regulations under subsection (3), subsection (7) of section 4 of that Act applies in relation to a general dental services contract, and
 - (b) a direction as to payments is made under that provision in relation to the contract,
- the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.”
- (2) Sections 35 and 36 of the 1977 Act (arrangements for general dental services) shall cease to have effect.

Commencement Information

I3 S. 172 partly in force; s. 172 in force at Royal Assent for certain purposes, see s. 199(1)(4)

173 General dental services: transitional

- (1) The appropriate authority shall by order make transitional provision in respect of persons who, immediately before the coming into force of section 172, are providing services under section 35 of the 1977 Act (general dental services).
- (2) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a general dental services contract with him; and the order may make provision as to the terms of any such contract.
- (3) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a contract with him, containing such terms as the order may specify, for the provision of dental services.
- (4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the appropriate authority or a person appointed by the authority.
- (5) An order under this section may make provision in respect of a period beginning before the coming into force of the provision (or of section 172), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.
- (6) In this section—

“appropriate authority” means—

 - (a) the Secretary of State, in relation to England; and
 - (b) the Assembly, in relation to Wales;

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“general dental services contract” means a contract under section 28K of the 1977 Act (as inserted by section 172(1)).

Commencement Information

I4 S. 173 partly in force; s. 173 in force at Royal Assent for certain purposes, see s. 199(1)(4)

Primary medical services

174 Provision of primary medical services

In the 1977 Act, after section 16CB (as inserted by section 171 above) insert—

“16CC Primary medical services

- (1) Each Primary Care Trust and Local Health Board must, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary medical services within its area, or secure their provision within its area.
- (2) A Primary Care Trust or Local Health Board may (in addition to any other power conferred on it)—
 - (a) provide primary medical services itself (whether within or outside its area);
 - (b) make such arrangements for their provision (whether within or outside its area) as it thinks fit, and may in particular make contractual arrangements with any person.
- (3) Each Primary Care Trust and Local Health Board must publish information about such matters as may be prescribed in relation to the primary medical services provided under this Part.
- (4) A body on which functions are conferred under this section must co-operate with any other such body in the discharge of their respective functions relating to the provision of primary medical services under this Part.
- (5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary medical services for the purposes of this Part.
- (6) Regulations under this section may in particular describe services by reference to the manner or circumstances in which they are provided.”

Commencement Information

I5 S. 174 partly in force; s. 174 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I6 S. 174 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(d) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

I7 S. 174 in force at 28.2.2004 for W. in so far as not already in force by S.I. 2004/480, art. 2(2) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

I8 S. 174 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 2(2)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

175 General medical services contracts

- (1) In the 1977 Act, after section 28P (as inserted by section 172 above) insert—

“General medical services contracts

28Q General medical services contracts: introductory

- (1) A Primary Care Trust or Local Health Board may enter into a contract under which primary medical services are provided in accordance with the following provisions of this Part.
- (2) A contract under this section is called in this Act a “general medical services contract”.
- (3) Subject to any provision made by or under this Part, a general medical services contract may make such provision as may be agreed between the Primary Care Trust or Local Health Board and the contractor or contractors in relation to—
 - (a) the services to be provided under the contract,
 - (b) remuneration under the contract, and
 - (c) any other matters.
- (4) The services to be provided under a general medical services contract may include—
 - (a) services which are not primary medical services;
 - (b) services to be provided outside the area of the Primary Care Trust or Local Health Board.
- (5) In this Part, “contractor”, in relation to a general medical services contract, means any person entering into the contract with the Primary Care Trust or Local Health Board.

28R Requirement to provide certain primary medical services

- (1) A general medical services contract must require the contractor or contractors to provide, for his or their patients, primary medical services of such descriptions as may be prescribed.
- (2) Regulations under subsection (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

28S Persons eligible to enter into GMS contracts

- (1) A Primary Care Trust or Local Health Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with—
 - (a) a medical practitioner;
 - (b) two or more individuals practising in partnership where the conditions in subsection (2) are satisfied; or
 - (c) a company limited by shares where the conditions in subsection (3) are satisfied.
- (2) The conditions referred to in subsection (1)(b) in relation to a partnership are that—

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- (a) at least one partner is a medical practitioner; and
 - (b) any partner who is not a medical practitioner is either—
 - (i) an NHS employee;
 - (ii) a section 28C employee, section 17C employee or Article 15B employee;
 - (iii) a health care professional who is engaged in the provision of services under this Act; or
 - (iv) an individual falling within section 28D(1)(bc) above.
- (3) The conditions referred to in subsection (1)(c) in relation to a company are that—
- (a) at least one share in the company is legally and beneficially owned by a medical practitioner; and
 - (b) any share which is not so owned is legally and beneficially owned by a person referred to in subsection (2)(b)(i) to (iv).
- (4) Regulations may make provision as to the effect, in relation to a general medical services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.
- (5) In this section—
- “health care professional” has the same meaning as in section 28M above;
 - “NHS employee”, “section 28C employee”, “section 17C employee” and “Article 15B employee” have the same meanings as in section 28D above.

28T GMS contracts: payments

- (1) The appropriate authority may give directions as to payments to be made under general medical services contracts.
- (2) A general medical services contract must require payments to be made under the contract in accordance with directions for the time being in force under this section.
- (3) Without prejudice to the generality of the power under subsection (1), directions under that subsection may—
 - (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
 - (b) provide for payments to be made by reference to—
 - (i) any scheme or scale specified in the direction; or
 - (ii) a determination made by any person in accordance with factors specified in the direction;
 - (c) provide for the making of payments in respect of individual practitioners;
 - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Primary Care Trust or Local Health Board only if it is satisfied as to certain conditions);
 - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the

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provision is not detrimental to the persons to whose remuneration it relates.

- (4) Before giving a direction under subsection (1), the appropriate authority—
 - (a) must consult any body appearing to the authority to be representative of persons to whose remuneration the direction would relate, and
 - (b) may consult such other persons as the authority thinks appropriate.
- (5) Section 18(1) and (3)(b) apply in relation to directions under this section.
- (6) References in this section to payments include fees, allowances, reimbursements, loans and repayments.
- (7) In this section “appropriate authority” means—
 - (a) the Secretary of State, in relation to a contract made by a Primary Care Trust;
 - (b) the National Assembly for Wales, in relation to a contract made by a Local Health Board.

28U GMS contracts: prescription of drugs etc

- (1) A general medical services contract must contain provision requiring the contractor or contractors to comply with any directions given by the appropriate authority for the purposes of this section as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the contract.
- (2) A direction under this section must, subject to subsection (3), be given by regulations.
- (3) A direction under this section may be given by an instrument in writing where it gives effect to a request made in writing to the authority making the direction by a person who is a holder of a Community marketing authorization or United Kingdom marketing authorisation in respect of the drug, medicine or other substance to which the request relates.
- (4) A direction under this section given by an instrument in writing may be varied or revoked by a further direction under this section (whether given by an instrument in writing or by regulations).
- (5) In this section—
 - “appropriate authority” has the same meaning as in section 28T above;
 - “Community marketing authorization” and “United Kingdom marketing authorisation” have the meanings given by regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994 (S.I. 1994/3144).

28V GMS contracts: other required terms

- (1) A general medical services contract must contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (2) Regulations under subsection (1) may in particular make provision as to—
 - (a) the manner in which, and standards to which, services are to be provided;
 - (b) the persons who perform services;
 - (c) the persons to whom services are to be provided;
 - (d) the variation of contract terms (other than terms required by or under this Part);
 - (e) rights of entry and inspection (including inspection of clinical records and other documents);
 - (f) the circumstances in which, and the manner in which, the contract may be terminated;
 - (g) enforcement;
 - (h) the adjudication of disputes.
- (3) Regulations making provision under subsection (2)(c) must make provision as to the circumstances in which a contractor or contractors—
 - (a) must or may accept a person as a patient to whom services are provided under the contract; or
 - (b) may decline to accept a person as such a patient; or
 - (c) may terminate his or their responsibility for a patient.
- (4) Regulations under subsection (2)(d) may—
 - (a) make provision as to the circumstances in which a Primary Care Trust or Local Health Board may impose a variation of contract terms;
 - (b) make provision as to the suspension or termination of any duty under the contract to provide services of a prescribed description.
- (5) Regulations making provision of the kind described in subsection (4)(b) may prescribe services by reference to the manner or circumstances in which they are provided.
- (6) Regulations under subsection (1) must make provision as to the right of patients to choose the persons from whom they are to receive services.

28W GMS contracts: disputes and enforcement

- (1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general medical services contract.
- (2) Regulations under subsection (1) may make provision—
 - (a) for the referral of the terms of the proposed contract to the Secretary of State or National Assembly for Wales; and
 - (b) for the Secretary of State or Assembly, or a person appointed by him or it, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general medical services contract to be regarded as a health service body for any purposes of section 4 of the National Health Service and Community Care Act 1990, in circumstances where he or they so elect.
- (4) Regulations under subsection (3) may include provision as to the application of section 4 of that Act in cases where—

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- (a) persons practising in partnership elect to become a health service body; and
 - (b) there is a change in the membership of the partnership.
- (5) Where—
- (a) by virtue of regulations under subsection (3), subsection (7) of section 4 of that Act applies in relation to a general medical services contract, and
 - (b) a direction as to payments is made under that subsection in relation to the contract,
- the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.”
- (2) Sections 29 to 34A of the 1977 Act (arrangements for general medical services) shall cease to have effect.

Commencement Information

- I9** S. 175 partly in force; s. 175 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I10** S. 175(1) in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 3(1)(b) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I11** S. 175(1) in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 3(1)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I12** S. 175(1) in force at 28.2.2004 for W. in so far as not already in force by S.I. 2004/480, art. 3(1)(a) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I13** S. 175(1) in force at 1.3.2004 for E. in so far as it is not already in force by S.I. 2004/288, art. 3(2) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I14** S. 175(2) in force at 28.2.2004 for W. by S.I. 2004/480, art. 2(2) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

176 General medical services: transitional

- (1) The appropriate authority shall by order make transitional provision in respect of persons who, immediately before the coming into force of section 175, are providing services under section 29 of the 1977 Act (general medical services).
- (2) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a general medical services contract with him; and the order may make provision as to the terms of any such contract.
- (3) An order under this section may provide that, in such circumstances as the order may prescribe, a Primary Care Trust or Local Health Board must, if any such person so wishes, enter into a contract with him, containing such terms as the order may specify, for the provision of medical services.
- (4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the appropriate authority or a person appointed by the authority.

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

(5) An order under this section may make provision in respect of a period beginning before the coming into force of the provision (or of section 175), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.

(6) In this section—

“appropriate authority” means—

- (a) the Secretary of State, in relation to England; and
- (b) the Assembly, in relation to Wales;

“general medical services contract” means a contract under section 28Q of the 1977 Act (as inserted by section 175).

Commencement Information

I15 S. 176 partly in force; s. 176 in force at Royal Assent for certain purposes, see s. 199(1)(4)

I16 S. 176 in force at 3.2.2004 for E. by S.I. 2004/288, **art. 3(1)(c)** (with **arts. 7, 8**) (as amended by S.I. 2004/866 and S.I. 2005/2925)

I17 S. 176 in force at 28.2.2004 for W. by S.I. 2004/480, **art. 3(1)(b)** (with **arts. 6, 7**) (as amended by S.I. 2004/1019 and S.I. 2006/345)

Primary dental and medical services: supplementary

177 Arrangements under section 28C of the 1977 Act

(1) Section 28D of the 1977 Act (persons with whom arrangements under section 28C of that Act may be made) is amended as follows.

(2) In subsection (1), for paragraphs (b) and (c) substitute—

- “(b) a medical practitioner who meets the prescribed conditions;
- (ba) a dental practitioner who meets the prescribed conditions;
- (bb) a health care professional who meets the prescribed conditions;
- (bc) an individual who is providing services—
 - (i) under a general medical services contract or general dental services contract;
 - (ii) in accordance with section 28C arrangements, section 17C arrangements or Article 15B arrangements; or
 - (iii) under section 19 or 25 of the 1978 Act or Article 56 or 61 of the Health and Personal Social Services (Northern Ireland) Order 1972 (1972 No. 1256 (N.I. 14));

or has so provided them within such period as may be prescribed;”.

(3) After subsection (1) insert—

“(1A) The power under subsection (1) to make an agreement with a person falling within paragraph (bc) or (d) of that subsection is subject to such conditions as may be prescribed.”

(4) In subsection (2), after the definition of “the 1978 Act” insert—

““health care professional” means a person who is a member of a profession regulated by a body mentioned (at the time the agreement in question is

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made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;”.

(5) In that subsection, for the definition of “NHS employee” substitute—

““NHS employee” means an individual who, in connection with the provision of services in the health service in England and Wales, Scotland or Northern Ireland, is employed by—

- (a) an NHS trust, an NHS foundation trust or (in Northern Ireland) a Health and Social Services Trust;
- (b) a Primary Care Trust or Local Health Board;
- (c) a person who is providing services under a general medical services contract or a general dental services contract;
- (d) an individual who is providing services as specified in subsection (1)(bc)(iii) above;”.

(6) In the definitions of “section 17C employee” and “section 28C employee”, for “an individual providing” substitute “a person providing or performing”.

(7) In section 28E of the 1977 Act (regulations), in subsection (3), after paragraph (c) insert—

“(ca) impose conditions (including conditions as to qualifications and experience) to be satisfied by persons performing services in accordance with section 28C arrangements;”.

(8) In that section, after subsection (3) insert—

“(3A) The regulations may also require payments to be made under the arrangements in accordance with directions given for the purpose by the Secretary of State; and section 18(1) and (3)(b) apply in relation to any such directions.

(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.”

(9) In that section, after subsection (3B) (as inserted by subsection (8) above), insert—

“(3C) The regulations may also include provision requiring a Primary Care Trust or Local Health Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract or general dental services contract on prescribed terms with any person providing services under section 28C arrangements who so requests.”

(10) In that section, after subsection (3C) (as inserted by subsection (9) above) insert—

“(3D) The regulations may also include provision for the resolution of disputes as to the terms of any proposed section 28C arrangements, and in particular may make provision—

- (a) for the referral of the terms of the proposed arrangements to the Secretary of State or National Assembly for Wales; and
- (b) for the Secretary of State, or Assembly, or a person appointed by him or it, to determine the terms on which the arrangements may be entered into.”

(11) In that section, after subsection (3D) (as inserted by subsection (10) above) insert—

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

“(3E) The regulations must provide for the circumstances in which a person providing primary medical services under section 28C arrangements—

- (a) must or may accept a person as a patient to whom such services are so provided;
- (b) may decline to accept a person as such a patient;
- (c) may terminate his responsibility for a patient.

(3F) The regulations must make provision as to the right of patients to choose the persons from whom they are to receive services under section 28C arrangements.”

(12) In that Act, sections 28F (choice of medical practitioner), 28G (choice of dental practitioner) and 28H (immunisation) shall cease to have effect.

Commencement Information

- I18** S. 177 partly in force; s. 177 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I19** S. 177(1)(2) in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 4(1) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I20** S. 177(1) in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I21** S. 177(2) in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I22** S. 177(3)-(11) in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, art. 4(2)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

VALID FROM 01/04/2004

178 Abolition of pilot schemes

- (1) Part 1 of the National Health Service (Primary Care) Act 1997 (c. 46) (power to make pilot schemes for the provision of personal medical and dental services) shall cease to have effect.
- (2) This section extends to England and Wales only.

179 Persons performing primary medical and dental services

- (1) In the 1977 Act, after section 28W (as inserted by section 175 above) insert—

“28X Persons performing primary medical and dental services

- (1) Regulations may provide that a health care professional of a prescribed description may not perform any primary medical service for which a Primary Care Trust or Local Health Board is responsible unless he is included in a list maintained under the regulations by a Primary Care Trust or Local Health Board.
- (2) Regulations may provide that a health care professional of a prescribed description may not perform any primary dental service for which a Primary

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

Care Trust or Local Health Board is responsible unless he is included in a list maintained under the regulations by a Primary Care Trust or Local Health Board.

- (3) For the purposes of this section—
- (a) “health care professional” means a person who is a member of a profession regulated by a body for the time being mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;
 - (b) a Primary Care Trust or Local Health Board is responsible for a medical or dental service if it provides the service, or secures its provision, by or under any enactment.
- (4) Regulations under this section may make provision in relation to lists under this section 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 as to the Primary Care Trust or Local Health Board to which an application must be made, and for the procedure for applications and the documents to be supplied on application);
 - (d) the grounds on which an application for inclusion may or must be granted or refused;
 - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits);
 - (f) suspension or removal from a list (including provision for 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 in respect of a person suspended from the list (including provision for the amount of the payment, or the method of calculating the payment, to be determined by the Secretary of State or National Assembly for Wales, or a person appointed by him or it);
 - (i) the criteria to be applied in making decisions under the regulations;
 - (j) appeals against decisions made by a Primary Care Trust or Local Health Board under the regulations; and
 - (k) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals;
- and may make any provision corresponding to anything in sections 49F to 49N below.
- (5) Regulations under this section may, in particular, also provide for—
- (a) a person’s inclusion in a list to be subject to conditions determined by a Primary Care Trust or Local Health Board;
 - (b) a Trust or Board to vary the conditions or impose different ones;
 - (c) the consequences of failing to comply with a condition (including removal from the list);
 - (d) the review by a Trust or Board of decisions made by it by virtue of the regulations.

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (6) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the list relates, or
 - (b) preventing fraud.
- (7) Regulations making provision as to the matters referred to in subsection (4)
- (k) may in particular authorise the disclosure of information—
 - (a) by a Primary Care Trust or Local Health Board to the Secretary of State or the National Assembly for Wales; and
 - (b) by the Secretary of State or the National Assembly for Wales to a Primary Care Trust or Local Health Board.”
- (2) In section 49M(7) of that Act, at the end there is inserted “; and regulations under this subsection may include provision of the kind referred to in section 49I(10)”.

Commencement Information

- I23** S. 179 partly in force; s. 179 in force at Royal Assent for certain purposes, see s. 199(1)(4)
- I24** S. 179(1) in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, art. 2(1)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I25** S. 179(1) in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(a) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I26** S. 179(2) in force at 3.2.2004 for E. by S.I. 2004/288, art. 2(1)(a) (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I27** S. 179(2) in force at 28.2.2004 for W. by S.I. 2004/480, art. 2(1)(a) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

180 Assistance and support

In the 1977 Act, after section 28X (as inserted by section 179 above) insert—

“28Y Assistance and support

- (1) A Primary Care Trust or Local Health Board may provide assistance or support to—
- (a) any person providing, or proposing to provide primary medical services or primary dental services under a general medical services contract or a general dental services contract;
 - (b) any person providing, or proposing to provide, such services in accordance with section 28C arrangements.
- (2) Assistance or support provided by a Primary Care Trust or Local Health Board under subsection (1) is to be provided on such terms, including terms as to payment, as the Trust or Board thinks fit.
- (3) In this section “assistance” includes financial assistance.”

Commencement Information

- I28** S. 180 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, art. 2(1)(e) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

129 S. 180 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(2)(b)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

Dental services: miscellaneous

VALID FROM 01/04/2006

181 Abolition of Dental Practice Board

The Dental Practice Board is abolished.

182 Special Health Authorities

(1) In section 16B of the 1977 Act (exercise of functions by Primary Care Trusts), at the end insert—

“(4) The Secretary of State may by order make provision for the transfer to a Special Health Authority of the rights and liabilities of a Primary Care Trust under a general dental services contract in a case where the Authority exercises functions of the Trust in relation to the contract by virtue of subsection (2)(b) above (and for their transfer back to the Trust where the Authority ceases to exercise those functions).”.

(2) In section 16BC of that Act (exercise of functions by Local Health Boards), at the end insert—

“(4) The Assembly may by order make provision for the transfer to a Special Health Authority of the rights and liabilities of a Local Health Board under a general dental services contract in a case where the Authority exercises functions of the Board in relation to the contract by virtue of subsection (2) (b) above (and for their transfer back to the Board where the Authority ceases to exercise those functions).”.

Commencement Information

I30 S. 182 partly in force; s. 182 in force at Royal Assent for certain purposes, see s. 199(1)(4)

183 Charges for dental services

(1) In the 1977 Act, for sections 78A to 79A substitute—

“79 Dental charging

(1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for relevant dental services.

(2) Regulations under subsection (1) may in particular include provision—

(a) specifying the amount, or maximum amount, of any charge (or aggregate charge in respect of the provision for two or more relevant dental services);

Status: Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (b) for calculating the amount of any charge;
 - (c) for the variation of the amount, or maximum amount, of any charge in cases of a prescribed description;
 - (d) for any charge not to be payable in cases of a prescribed description;
 - (e) for power to direct that a charge is not payable in any particular case;
 - (f) for the repayment of any charge (including provision as to the persons by whom, and manner in which, repayments are to be made).
- (3) Regulations under subsection (1) may provide for sums which would otherwise be payable by a Primary Care Trust, Local Health Board or Special Health Authority to persons providing relevant dental services to be reduced by the amount of the charges authorised by the regulations.
- (4) This section is subject to Schedule 12ZA.
- (5) In this section and Schedule 12ZA “relevant dental services” means—
- (a) dental treatment provided—
 - (i) under section 16CA(2) above (dental services provided by a Primary Care Trust or Local Health Board);
 - (ii) under a general dental services contract;
 - (iii) in accordance with section 28C arrangements; and
 - (b) the supply of dentures and other dental appliances under this Act.
- (6) Any reference in this section or Schedule 12ZA to the supply of an appliance includes a reference to its repair, adjustment, refitting or replacement and, in the case of dentures, to their being relined or having additions made to them.”
- (2) After Schedule 12 to that Act insert—

“SCHEDULE
12ZA

DENTAL CHARGING: EXEMPTIONS

General exemptions

- 1 (1) No charge is to be made under regulations under section 79(1) in respect of a relevant dental service provided for any person who at the prescribed time—
- (a) was under 18;
 - (b) was under 19 and receiving qualifying full-time education;
 - (c) was pregnant; or
 - (d) had given birth to a child within the previous 12 months.
- (2) In sub-paragraph (1)(b), “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the person or body making the regulations.
- (3) For the purposes of sub-paragraph (2)—
- (a) “recognised educational establishment” means an establishment recognised by the person or body making the regulations as being, or as comparable to, a school, college or university; and

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

(b) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

(4) In sub-paragraph (1)(d), “child” includes a still-born child (within the meaning of the Births and Deaths Registration Act 1953).

(5) This paragraph is subject to paragraph 3.

Repair and replacement

2 (1) No charge is to be made under regulations under section 79(1) in respect of the repair or replacement of any appliance.

(2) This paragraph is subject to paragraph 3.

Exceptions to paragraphs 1 and 2

3 Paragraphs 1 and 2 do not apply in relation to—

(a) the repair or replacement of any appliance of a prescribed description; or

(b) the repair or replacement of any appliance where it is determined in the prescribed manner—

(i) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied; or

(ii) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.

Hospital patients

4 No charge is to be made under regulations under section 79(1) in respect of any appliance supplied to a patient for the time being resident in a hospital.

Hospital patients

5 Paragraph 4 does not apply where an appliance is supplied—

(a) under section 16CA(2) above;

(b) under a general dental services contract; or

(c) in accordance with section 28C arrangements.

Arrest of bleeding

6 No charge is to be made under regulations under section 79(1) in respect of the arrest of bleeding.

Declarations and evidence

7 Regulations may provide, with respect to any exemption under this Schedule, that it is to be a condition of the exemption that—

(a) a declaration of the prescribed kind is made in the prescribed form and manner; or

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Changes to legislation: There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4. (See end of Document for details)

- (b) a certificate or other evidence of the prescribed kind is supplied in the prescribed form and manner.”
- (3) In section 126 of that Act—
- (a) in subsection (1), after “PCT order” insert “ or an instrument to which subsection (1A) applies ”;
- (b) after subsection (1) insert—
- “(1A) The Secretary of State may not make a statutory instrument containing the first regulations made under section 79(1) above (as substituted by the Health and Social Care (Community Health and Standards) Act 2003) unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”
- (4) In respect of any period after the coming into force of this section but before the coming into force of section 178, section 79(5)(b) of the 1977 Act (as inserted by subsection (1) above) shall have effect as if it included a reference to the supply of dentures and other dental appliances in accordance with a pilot scheme under Part 1 of the National Health Service (Primary Care) Act 1997 (c. 46).

Commencement Information

I31 S. 183 partly in force; s. 183 in force at Royal Assent for certain purposes, see s. 199(1)(4)

General

184 Minor and consequential amendments

Schedule 11 (which contains minor and consequential amendments relating to this Part) has effect.

Commencement Information

- I32** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 3(1)(d)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I33** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(1)(c)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I34** S. 184 in force at 3.2.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(1)(b)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I35** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(b)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I36** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(f)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I37** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 2(1)(c)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I38** S. 184 in force at 28.2.2004 for specified purposes for W. by S.I. 2004/480, **art. 3(1)(c)** (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- I39** S. 184 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 2(2)(c)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)
- I40** S. 184 in force at 1.3.2004 for specified purposes for E. by S.I. 2004/288, **art. 4(2)(b)** (with arts. 7, 8) (as amended by S.I. 2004/866 and S.I. 2005/2925)

Status:

Point in time view as at 01/03/2004. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation:

There are currently no known outstanding effects for the Health and Social Care (Community Health and Standards) Act 2003, Part 4.