



National Health Service (Amendment) Act 1949

1949 CHAPTER 93

PART I

MEDICAL PARTNERSHIPS

1 Application of Act to existing partnership agreements and modification of those agreements.

(1) This section applies to any partnership agreement in force on and immediately before the appointed day between medical practitioners one at least of whose names was entered on that day on a list of medical practitioners undertaking to provide general medical services.

(2) In this section—

the expression " listed partner " means a partner whose name was entered on the appointed day on a list of medical practitioners undertaking to provide general medical services;

the expression " new listed partner " means a partner whose name was not entered on such a list as aforesaid on the appointed day but has been so entered before the relevant date;

the expression " outside partner " means a partner whose name was not entered on any such list as aforesaid on the appointed day and has not been so entered before the relevant date ;

and each of the said expressions shall, in the case of a deceased person who immediately before his death was a listed partner, a new listed partner or an outside partner, be construed, where the context so requires, as referring to the personal representative of that person.

For the purpose of the aforesaid definitions the relevant date shall, in relation to any obligation imposed or option conferred on any such partner by the partnership agreement, be deemed to be the date on which the obligation is required to be

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performed or would but for this section be required to be performed, or, as the case may be, the date on which the option is first exercisable.

- (3) Section thirty-five of the National Health Service Act, 1946 (hereafter in this Act referred to as " the Act of 1946 "), which prohibits the sale of medical practices, shall not affect, and shall be deemed never to have affected, the exercise or performance under any partnership agreement to which this section applies of any right or obligation of a partner to sell to, or purchase from, another partner any share in the goodwill of the partnership practice, but any such agreement shall have effect subject to the following provisions of this section.
- (4) Notwithstanding anything in section thirty-six of the Act of 1946 or in the last preceding subsection—
- (a) there shall be determined in accordance with regulations made under the said section thirty-six the compensation payable in respect of any share of the goodwill of the partnership practice carried on under any agreement to which this section applies, in all respects as if the said section thirty-five of the Act of 1946 prohibited the sale of any such share, whether under the agreement or otherwise; and
 - (b) the payment of the compensation so determined and of interest thereon shall be subject to the following provisions of this section. .
- (5) Where any agreement to which this section applies imposes an obligation or confers an option on a listed or new listed partner to purchase the share of another partner being a listed partner in the goodwill of the partnership practice, and, in the case of an option, the option has been exercised, that share shall be transferred at the time and on the terms (except as to the payment of the purchase price) provided in the agreement and there shall be paid to the partner from whom the share is transferred, on or as soon as possible after the completion of the transfer, in lieu of the payment of the purchase price by the partner to whom the share is transferred, the compensation determined as aforesaid in respect of that share.
- (6) Where any agreement to which this section applies—
- (a) imposes an obligation on an outside partner to purchase the share of a listed partner or a new listed partner in the goodwill of the partnership practice ; or
 - (b) imposes an obligation on a new listed partner, to purchase the share of another new listed partner in the goodwill of the partnership practice ;
- the obligation shall be deemed to be an option exercisable by notice in writing to purchase that share not later than three months after the time at which, and otherwise on the same terms as those on which, the obligation would have had to be performed.
- (7) Where the share of a listed partner in the goodwill of the partnership practice carried on under any agreement to which this section applies has been purchased by an outside partner in pursuance of an option conferred by the last preceding subsection or by the agreement, the compensation determined as aforesaid in respect of that share shall not be paid and the interest thereon shall cease to be payable as from the date when the option was exercised:

Provided that the amount of compensation payable in respect of any other medical practice or share thereof under section thirty-six of the Act of 1946 shall not be increased in consequence of the said compensation not being paid.

- (8) Where the share of an outside partner or new listed partner in the goodwill of the partnership practice carried on under any agreement to which this section applies has

been purchased by a listed partner in pursuance of an obligation imposed or option conferred by the agreement, there shall be paid to the listed partner out of moneys provided by Parliament (but not as part of the compensation payable under section thirty-six of the Act of 1946) compensation of an amount bearing to the compensation determined under subsection (4) of this section in respect of the share of the listed partner in such goodwill the same proportion as the share of the outside partner or, as the case may be, new listed partner in such goodwill bears to the said share of the listed partner:

Provided that—

- (a) if the compensation payable under this subsection exceeds the purchase price, the compensation shall be reduced by the amount of the excess;
- (b) if the share purchased is that of a new listed partner, and the purchase price exceeds the amount of the compensation payable to the listed partner under this subsection, the amount of that excess shall be deducted from the purchase price and, if already paid, shall be repaid;
- (c) this subsection shall not apply in a case where at the time of the purchase or, if the listed partner has died before the time of the purchase, at the time of his death, the name of the listed partner is or was no longer entered on such a list as aforesaid.

- (9) The compensation payable under the last preceding subsection shall be payable at or as soon as possible after the time when the purchase price for the said share is paid:

Provided that, if the purchase price is payable by instalments, the said compensation shall be payable at such times and in such manner as may be prescribed.

- (10) Where an agreement to which this section applies provides for the purchase of a part of any partner's share in the goodwill of the partnership practice by another partner, the preceding provisions of this section shall have effect, in relation to that purchase and to any right or obligation in respect thereof, as if references to a share of such goodwill were construed as references to a part of such a share and as if references to the compensation determined in respect of such a share were construed as references to a proportionate part of that compensation.
- (11) Where an agreement to which this section applies provides for the purchase of a share or part of a share in the goodwill of the partnership practice by two or more partners, the agreement shall have effect for the purposes of this section as if it provided for the separate purchase by each of those partners of such part of that share as will, in accordance with the agreement, be added to the existing share of that partner after the purchase, and the preceding provisions of this section shall apply accordingly.
- (12) Where any agreement to which this section applies contains provisions which take effect on the purchase of any share or part of a share of the goodwill of the partnership practice, those provisions shall take effect in like manner on the transfer of that share or part in accordance with this section, notwithstanding that the transfer does not constitute a purchase.
- (13) For the purposes of this section and the following provisions of this Act relating to medical partnerships, a member of a medical partnership shall, if the partnership agreement defines his share in the goodwill of the partnership practice and distinguishes that share from his share in the profits of the partnership, be deemed to have the share in the goodwill so defined, and in any other case his share in that goodwill shall be deemed to be the same as his share in the profits of the partnership:

Provided that, if the partnership agreement contains a provision which was in force immediately before the appointed day and divides into shares the aggregate compensation payable in respect of the goodwill of the partnership practice or, as the case may be, payable in respect of the shares in that goodwill of the persons entitled to such compensation, that provision shall be deemed to effect a corresponding division of the goodwill of the partnership practice or, as the case may be, the aggregate of those shares therein.

2 Effect of changes in partnership agreement.

Where any partnership agreement to which the last preceding section applies is subsequently modified or is replaced by a subsequent agreement, the agreement as so modified or, as the case may be, the new agreement shall, so long as at least two of the partners to whom the agreement relates were partners under the original agreement on and immediately before the appointed day, be deemed for the purposes of the last preceding section to be the original agreement, and any subsequent modification or replacement shall be treated in like manner so long as the condition aforesaid remains satisfied:

Provided that the last preceding section shall only apply in relation to the purchase, and rights and obligations in respect of the purchase, of a share in the goodwill of a medical partnership carried on under any such agreement, if the persons who are or would be parties to the purchase were members of the partnership on and immediately before the appointed day and the provisions of the agreement relating to the purchase are substantially the same as they were immediately before the appointed day.

3 Right of medical partners to be entered on lists after appointed day.

- (1) Where any medical practitioner was practising in partnership on and immediately before the appointed day but did not make an application before the appointed day for inclusion in a list of medical practitioners undertaking to provide general medical services, he shall, if he has made or makes on or at any time after the appointed day and before the expiration of the period of two months beginning with the date of the passing of this Act an application in the prescribed manner to the Executive Council for any area in which he was practising on the appointed day, be entitled to be included in the list of medical practitioners undertaking to provide general medical services for persons in that area, and section thirty-four of the Act of 1946 shall not apply to any such application and, if any such application made before the passing of this Act has been refused, the refusal shall not have effect and the application shall forthwith be granted.
- (2) For the purposes of section thirty-six of the Act of 1946 (which provides for the payment of compensation for the loss of rights to sell medical practices), any medical practitioner who was practising in partnership on the appointed day and whose name was subsequently, but before the expiration of the period aforesaid, entered on any such list as aforesaid (whether by virtue of the preceding subsection or otherwise) shall be treated in like manner as if his name had been so entered on the appointed day, and compensation shall be determined in respect of his share of the goodwill of the partnership practice as at the appointed day.
- (3) This Part of this Act shall apply, and shall be deemed always to have applied, to any such medical practitioner, and to the partnership agreement under which he carried on his practice on and immediately before the appointed day, in like manner as if his

name had been entered as aforesaid on the appointed day, and he shall be deemed, for the purposes of section one of this Act, to be a listed partner and not to be a new listed partner.

4 Retrospective effect of s. 1 of Act.

(1) Section one of this Act shall apply in relation to rights and obligations which were exercised or performed, or were required to be exercised or performed, on or after the appointed day and before the passing of this Act, under an agreement to which that section applies, subject to the following modifications:—

(a) for subsection (5) there shall be substituted the following subsection:—

“(5) Where, under an agreement to which this section applies, the share of a listed partner in the goodwill of the partnership practice has been purchased (whether before or after the passing of this Act) by another listed partner, the compensation determined under subsection (4) of this section in respect of that share shall be paid, as soon as possible after the completion of the transfer of the share or the passing of this Act (whichever is the later), to the partner by whom it was purchased:

Provided that if the amount of the compensation exceeds the purchase price, the excess shall be paid to the partner whose share was purchased”;

(b) subsection (6) shall not apply ;

(c) in subsection (7), the reference to an option conferred by the agreement shall include a reference to an obligation imposed by the agreement and the reference to the date when the option was exercised shall be construed as a reference to the passing of this Act;

(d) the reference in subsection (9) to the time when the purchase price is paid shall be construed as a reference to that time or the passing of this Act, whichever is the later ; and

(e) for subsection (11) the following subsection shall be substituted:—

“(11) Where an agreement to which this section applies provides for the purchase of a share or part of a share in the goodwill of the partnership practice by two or more partners, any purchase made in pursuance of such a provision shall be treated for the purposes of this section as if it were two separate purchases by the two respective partners of such parts of that share as will, in accordance with the agreement, be added to the existing shares of those partners after the purchase, and the preceding provisions of this section shall apply accordingly.”

(2) The preceding subsection shall, in relation to any agreement which, by virtue of subsection (3) of the last preceding section becomes, at any time after the passing of this Act and before the expiration of the period of two months beginning with the date of the passing of this Act, an agreement to which section one of this Act applies, have effect as if the references to the passing of this Act were references to the date on which the agreement becomes an agreement to which that section applies.

5 Modification of other medical partnerships in force on appointed day.

(1) Where, in the case of a medical partnership carried on under an agreement in force on and immediately before the appointed day, the name of none of the partners has, before

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the expiration of the period of two months beginning with the date of the passing of this Act, been entered on a list of medical practitioners providing general medical services, but the name or names of one or more of the partners has or have subsequently been entered on such a list, section thirty-five of the Act of 1946 shall not affect, and shall be deemed never to have affected, the exercise or performance under the agreement of any right or obligation of a partner to sell to, or purchase from, another partner any share in the goodwill of the partnership practice, but any such agreement shall have effect subject to the next following subsection.

- (2) Where any such agreement imposes an obligation on a partner to purchase the share or any part of the share of another partner whose name has, at any time before the obligation would have had to be performed, been entered on any such list as aforesaid in the goodwill of the partnership practice, the obligation shall be deemed to be an option exercisable by notice in writing to purchase that share not later than three months after the time at which, and otherwise on the same terms as those on which, the obligation would have had to be performed.

6 Existing agreements with medical assistants.

- (1) Where an agreement in force on and immediately before the appointed day provides for the performance of services by a medical practitioner (hereafter in this section referred to as " the assistant") as an assistant to another medical practitioner (hereafter in this section referred to as " the employer "), and the name of the employer was on the appointed day, or has subsequently been, entered on a list of medical practitioners providing general medical services, section thirty-five of the Act of 1946 shall not affect, and shall be deemed never to have affected, the exercise or performance of any right or obligation conferred or imposed by the agreement on the assistant to purchase the goodwill or any part of the goodwill of the practice of the employer, or any right or obligation conferred or imposed by the agreement on the employer or his personal representative to sell the goodwill of his practice or any part thereof to the assistant, but any such agreement shall have effect subject to the following provisions of this section.
- (2) Where, in the case of any such agreement, the name of the employer was entered on the appointed day on a list of medical practitioners undertaking to provide general medical services, then, notwithstanding anything in section thirty-six of the Act of 1946 or in the preceding subsection—
 - (a) there shall be determined in accordance with regulations made under the said section thirty-six the compensation payable in respect of the goodwill of the practice of the employer, in all respects as if the said section thirty-five of the Act of 1946 prohibited the sale of that practice, whether under the agreement or otherwise f and
 - (b) the payment of the compensation so determined and of interest thereon shall be subject to the following provisions of this section.
- (3) Where any agreement to which the last preceding subsection applies imposes an obligation or confers an option on the assistant to purchase the goodwill of the practice of the employer or any part thereof and, in the case of an option, the option is exercised, that goodwill or part shall, if the name of the assistant has, before the time when the obligation is required to be performed or the option is first exercisable, been entered on a list of medical practitioners undertaking to provide general medical services, be transferred to him at the time and on the terms (except as to the payment of purchase price) provided in the agreement, and there shall be paid to the employer

or his personal representative, on or as soon as possible after the completion of the transfer, in complete satisfaction of the purchase price, the compensation determined as aforesaid in respect of the goodwill of his practice or, in the case of the transfer of a part of that goodwill, a proportionate part of that compensation.

- (4) Where any agreement to which subsection (2) of this section applies imposes an obligation on the assistant to purchase the goodwill of the practice of the employer or any part thereof and the name of the assistant has not, before the time when the obligation would have had to be performed, been entered on such a list as aforesaid, the obligation shall be deemed to be an option exercisable by notice in writing to purchase the goodwill or part not later than three months after the time at which, and otherwise on the same terms as those on which, the obligation would have had to be performed.
- (5) Where the goodwill of the practice of the employer or any part thereof has been purchased by the assistant in pursuance of an option conferred by the last preceding subsection or in pursuance of an option conferred by the agreement and exercised at a time when the assistant was not entered on such a list as aforesaid, the compensation determined under subsection (2) of this section in respect of that goodwill, or as the case may be, a proportionate part of that compensation, shall not be paid and, in so far as it has been paid, shall be repaid to the Minister, and the interest on the compensation shall cease to be payable as from the date when the option was exercised:

Provided that the amount of compensation payable in respect of any other medical practice or share thereof under section thirty-six of the Act of 1946 shall not be increased in consequence of the said compensation not being paid.

- (6) Where any agreement to which subsection (2) of this section applies contains provisions which take effect on the purchase of the goodwill of the employer's practice or any part thereof, those provisions shall take effect in like manner on the transfer of that goodwill or part in accordance with this section, notwithstanding that the transfer does not constitute a purchase.
- (7) Where any agreement, not being an agreement to which subsection (2) of this section applies, imposes an obligation on the assistant to purchase the goodwill of the practice of the employer or any part thereof, that obligation shall, if the employer enters his name on such a list as aforesaid after the appointed day but before the time when the obligation would have had to be performed, be deemed to be an option exercisable by the assistant by notice in writing to purchase that goodwill or part thereof not later than three months after the time at which, and otherwise on the same terms as those, on which, the obligation would have had to be performed.

7 Removal of hardships.

- (1) Every agreement to which section one or either of the two last preceding sections of this Act applies shall be deemed to contain a provision entitling any person who was a party to the agreement on and immediately before the appointed day and who claims that he has suffered or will suffer hardship in consequence of the operation, in relation to the agreement, of the Act of 1946 or this Act or any regulations made under section thirty-six of the Act of 1946, to refer the matter to a single arbitrator to be appointed by agreement of all the parties or, in default of such agreement, to an arbitration committee appointed under this section.
- (2) On any such reference, the arbitrator or committee shall have power to modify the provisions of the agreement or the operation, as respects the relative rights and obligations of such parties to the agreement as aforesaid, of the Act of 1946 or this

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Act or any such regulations as aforesaid in any such manner as he or they may think equitable for the purpose of removing or preventing such hardship, including a power to direct the payment or repayment of money by any such party to the agreement as aforesaid:

Provided that no such modification shall have the effect of increasing or diminishing the aggregate amount of compensation payable under the Act of 1946 or this Act in respect of the shares of the partners in the goodwill of any partnership practice, being shares in respect of which such compensation is payable, or, in the case of an agreement to which the last preceding section applies, the amount of compensation payable under the Act of 1946 in respect of the goodwill of the employer's practice.

- (3) Where the arbitrator or committee acting under the powers conferred by the last foregoing subsection modifies the operation of the Act of 1946 or of this Act or any such regulations as aforesaid in relation to the provisions of the agreement, he, or they, as the case may be, shall immediately report any such modifications to the Minister who shall, from time to time, and in any event, not less than one year after receiving such a report, lay a statement before Parliament, giving the number and brief particulars of all such reports received by him.
- (4) On any such reference as aforesaid in the case of a partnership, the arbitrator or arbitration committee shall also have power to recommend that the partnership shall be dissolved and, if such a recommendation is made and proceedings are commenced, before the expiration of three months after the publication of the award, by any of the partners under section thirty-five of the Partnership Act, 1890, for the dissolution of the partnership, the recommendation shall, if made by a single arbitrator, be evidence, and, if made by the arbitration committee, be conclusive evidence, that it is just and equitable that the partnership should be dissolved; but, save as aforesaid, no such hardship as aforesaid shall be treated by the court under paragraph (f) of the said section thirty-five as a circumstance rendering it just and equitable that the partnership be dissolved.
- (5) On any such reference as aforesaid in the case of an agreement to which the last preceding section applies, the arbitrator or arbitration committee shall have power to determine the agreement on such terms, which may include the payment of money by either party, as the arbitrator or committee thinks just.
- (6) The said arbitration committee shall consist of three members, one of whom shall be a practising barrister, advocate or solicitor appointed by the Lord Chancellor, another shall be a medical practitioner appointed by the President of the British Medical Association who is or has been in general practice, and the third shall be appointed by the Minister and shall be a member of one or more of the following bodies:—
 - The Institute of Chartered Accountants in England and Wales,
 - The Society of Incorporated Accountants and Auditors,
 - The Society of Accountants in Edinburgh,
 - The Institute of Accountants and Actuaries in Glasgow,
 - The Society of Accountants in Aberdeen,
 - The Association of Certified and Corporate Accountants,
 - The Institute of Chartered Accountants in Ireland.
- (7) There shall be paid out of moneys provided by Parliament to the members of the said arbitration committee such remuneration and allowances and such other expenses (if any) of the committee as the Minister may, with the approval of the Treasury, determine.

- (8) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—
- (a) the administration of oaths and the taking of affirmations ;
 - (b) the correction in awards of mistakes and errors;
 - (c) the summoning, attendance and examination of witnesses and the production of documents;
 - (d) the costs of the reference and award; and
 - (e) the enforcement of an award and the entry of judgment in terms thereof;
- shall, with any necessary modifications, apply in respect of any arbitration under this section, but, save as aforesaid, the said Acts shall not apply to any such arbitration.
- (9) On any reference under this section, the arbitrator or arbitration committee may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before the arbitrator or arbitration committee.

8 Removal of certain doubts as to operation of s. 35 of Act.

It is hereby declared for the removal of doubts that section thirty-five of the Act of 1946 does not prevent the sale of the goodwill or any part of the goodwill of a medical practice carried on in any area, being a sale by a medical practitioner whose name has never been entered on a list of an Executive Council for that area of medical practitioners undertaking to provide general medical services, notwithstanding that any part of the goodwill to be sold is attributable to a practice previously carried on by a person whose name was entered on such a list.

9 Application of Part I to Scotland.

- (1) This Part of this Act shall apply to Scotland subject to the modifications set forth in the following subsections.
- (2) For references to sections thirty-four, thirty-five and thirty-six of the Act of 1946 there shall be respectively substituted references to sections thirty-five, thirty-six and thirty-seven of the National Health Service (Scotland) Act, 1947 (hereafter in this Act referred to as " the Act of 1947 ") and for references to the Act of 1946 (without mention of any specific section) there shall be substituted references to the Act of 1947.
- (3) For references to the Minister of Health there shall be substituted references to the Secretary of State.
- (4) Section seven of this Act shall have effect as if—
- (a) for references to the Lord Chancellor there were substituted references to the Lord President of the Court of Session ;
 - (b) subsections (8) and (9) were omitted and there were inserted after subsection (7) the following subsections:—
- “(8) The arbitrator or arbitration committee to whom any matter is referred under this section shall have the like powers for securing the attendance of witnesses and the production of documents, and with regard to the examination of witnesses on oath and the awarding of expenses as if the arbitrator or committee were an arbiter under a submission.

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- (9) An arbitrator or arbitration committee to whom a matter is referred under this section may, and, if so directed by the Court of Session, shall, state a case for the opinion of that Court on any question of law arising in the proceedings on the reference, and the decision of the Court of Session thereon shall be final unless the Court of Session or the House of Lords give leave to appeal to the House of Lords, which leave may be given on such terms as to expenses or otherwise as the Court of Session or the House of Lords may determine.
- (10) An order or award on a reference under this section may be recorded for execution in the books of Council and Session and shall be enforceable accordingly.”

PART II

MISCELLANEOUS AND GENERAL

10 **Prohibition of full-time salaried practitioner service.**

Subsection (1) of section thirty-three of the Act of 1946, and subsection (1) of section thirty-four of the Act of 1947, (which require Executive Councils to make arrangements in accordance with regulations for the provision of general medical services by medical practitioners) shall be amended by the addition at the end of each of those subsections of the following proviso:—

“Provided that the remuneration to be paid under such arrangements 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 he has undertaken to provide such services.”

11 **Prohibition of full-time salaried dental practitioner service.**

Subsection (1) of section forty of the Act of 1946 and subsection (1) of section thirty-nine of the Act of 1947 (which require Executive Councils to make arrangements in accordance with regulations for the provision of general dental services by dental practitioners) shall be amended by the addition at the end of each of those subsections of the following proviso:—

“Provided that the remuneration to be paid under such arrangements to a dental practitioner who provides general dental services elsewhere than at a health centre shall not, except in special circumstances, consist wholly or mainly of a fixed salary.”

12 **Regulations not to require specialists to be employed whole-time.**

Section sixty-six of the Act of 1946 and section sixty-five of the Act of 1947 (which enable provision to be made by regulations with respect to the conditions of service of officers employed by bodies constituted under those Acts) shall be amended by the addition at the end of each of those sections of the following proviso:—

“Provided that regulations made under this section shall not contain any requirement that all specialists employed for the purpose of hospital and specialist services shall be employed whole-time.”

13 Reference of disputes as to conditions of service of persons employed or engaged in health services.

- (1) Any difference or dispute arising with respect to the remuneration or conditions of service of persons employed or engaged in the provision of services under either the Act of 1946 or the Act of 1947, shall be deemed to be—
 - (a) a difference or dispute to which the Conciliation Act, 1896, applies; and
 - (b) a trade dispute within the meaning of the Industrial Courts Act, 1919.
- (2) The power of the Minister of Labour and National Service under paragraphs (b) and (c) of subsection (2) of section two of the said Industrial Courts Act, 1919, to refer matters for settlement to the arbitration of one or more persons appointed by him or to a board of arbitration constituted in the manner specified in the said paragraph (c) shall be deemed, in the case of any such difference or dispute as aforesaid, to include power to refer the matter for advice to one or more persons appointed by him or to such a board of arbitration, and subsection (3) of section three of the said Act (which excludes the Arbitration Act, 1889, in relation to the references therein mentioned) shall extend to any reference made by virtue of this subsection.

14 Removal from lists of persons who do not provide services.

- (1) Subsection (2) of section thirty-three of the Act of 1946 and subsection (2) of section thirty-four of the Act of 1947 (which enable regulations to be made with respect to the provision of general medical services) shall be amended by the addition at the end of each of those subsections of the following paragraph—
 - “(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.”
- (2) Subsection (2) of section thirty-eight of the Act of 1946 and subsection (2) of section forty of the Act of 1947 (which enable regulations to be made with respect to the provision of pharmaceutical services) shall be amended by the addition at the end of each of those subsections of the words “and”
 - (c) for the removal from the list of persons undertaking to provide pharmaceutical services for persons in any area of the name of any person in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide such services for persons in that area.”
- (3) Subsection (2) of section forty of the Act of 1946 and subsection (2) of section thirty-nine of the Act of 1947 (which enable regulations to be made with respect to the provision of general dental services) shall be amended by the addition at the end of each of those subsections of the following paragraph—
 - “(f) for the removal from the list of dental practitioners undertaking to provide general dental services for persons in any area of the name of a dental practitioner in whose case it has been determined in such

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manner as may be prescribed that he has never provided or has ceased to provide general dental services for persons in that area.”

- (4) Subsection (3) of section forty-one of the Act of 1946 and subsection (3) of section forty-two of the Act of 1947 (which enable regulations to be made with respect to the provision of supplementary ophthalmic services) shall be amended by the addition at the end of each of those subsections of the following paragraph—

“(d) for the removal from the list of medical practitioners, ophthalmic opticians or dispensing opticians undertaking to provide supplementary ophthalmic services for persons in any area of the name of a medical practitioner, ophthalmic optician or dispensing optician, as the case may be, in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide supplementary ophthalmic services for persons in that area.”

15 Additional functions of Medical Practices Committee

Regulations made under section thirty-four of the Act of 1946 and regulations made under section thirty-five of the Act of 1947 may confer or impose on the Medical Practices Committee or, as the case may be, the Scottish Medical Practices Committee such additional functions in relation to arrangements for the provision of general medical services as may be prescribed.

16 Recovery of charges in respect of pharmaceutical services.

Section thirty-eight of the Act of 1946 and section forty of the Act of 1947 (which provide for the making of arrangements for pharmaceutical services) shall be amended by the addition at the end of each of those sections of the following subsection:—

“(3) Regulations may provide for the making and recovery, in such manner as may be prescribed, of such charges, in respect of such pharmaceutical services, as may be prescribed, and may provide for the remission or repayment of the charges in the case of such persons as may be prescribed.”

17 Recovery of charges from persons resident outside Great Britain.

- (1) The powers of the Minister to make regulations under the Act of 1946 shall, notwithstanding anything in section one of that Act, include power to make regulations providing for the making and recovery, in such manner as may be prescribed, of such charges, in respect of such services provided under the Act of 1946, as may be prescribed, being services provided in respect of such persons not ordinarily resident in Great Britain as may be prescribed; and such regulations may provide that the charges are only to be made in such cases as may be determined in accordance with the regulations.
- (2) This section shall apply to Scotland with the substitution for the reference to the Minister of a reference to the Secretary of State and for the references to the Act of 1946 of references to the Act of 1947.

18 Superannuation of officers of certain hospitals.

- (1) The Minister may enter into an agreement with the governing body of any hospital to which this section applies for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the superannuation benefits provided under regulations made under subsection (1) of section sixty-seven of the Act of 1946, in like manner as officers of Regional Hospital Boards, and the said regulations shall apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.
- (2) The terms and conditions on which such officers may be admitted to participate in the superannuation benefits aforesaid shall be designed to secure that the aggregate payments made by the governing body of the hospital and by the officers are equivalent to the sums paid out of moneys provided by Parliament in respect of the superannuation benefits provided for the officers.
- (3) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in the superannuation benefits aforesaid.
- (4) This section applies to any hospital (not vested in the Minister) which is used, in pursuance of arrangements made by the governing body of the hospital with a Regional Hospital Board, for the provision of hospital and specialist services.
- (5) This section shall apply to Scotland with the substitution for the references to the Minister of references to the Secretary of State, and for the reference to section sixty-seven of the Act of 1946 of a reference to section sixty-six of the Act of 1947.

19 Superannuation of certain officers of Government departments and of officers undertaking approved service.

- (1) The Minister may direct that regulations made under subsection (1) of section sixty-seven of the Act of 1946 shall, subject to such modifications as may be provided in the direction, apply to such classes of officers as may be specified in the direction, being officers of a Government department serving on the medical or nursing staff of that department or at or for the purposes of a hospital maintained by that department, as if their employment were employment entitling them to participate in superannuation benefits provided under paragraph (a) of that subsection, and in that event the said regulations shall apply accordingly.
- (2) The Minister may direct that regulations made under subsection (1) of section sixty-seven of the Act of 1946 shall, subject to such modifications as may be provided in the direction, apply to any such officer as is mentioned in paragraph (a) of that subsection who within twelve months after leaving his employment as such an officer enters such other employment as may be approved by the Minister for the purposes of this section, as if the employment so approved were employment entitling him to participate in superannuation benefits provided under that paragraph, and in that event the said regulations shall apply accordingly.
- (3) This section shall apply to Scotland with the substitution for the references to the Minister of references to the Secretary of State and for the references to section sixty-seven of the Act of 1946 of references to section sixty-six of the Act of 1947.

20 Appointment of practitioner members of Tribunal.

- (1) The Seventh Schedule to the Act of 1946 (which relates to the constitution of the Tribunal established for the purpose of inquiring into cases that may involve the removal of any person from a list prepared under Part IV of the Act) shall have effect with the substitution for paragraphs 4 and 5 of that Schedule of the following paragraphs—

“4 The remaining member (hereinafter referred to as ' the practitioner member') shall be appointed by the Minister from such one of the panels appointed as hereinafter provided as the Minister considers appropriate having regard to the profession or calling of the person whose case is being investigated.

For the purposes of this paragraph, the Minister shall, after consultation with such organisations as the Minister may recognise as representative of the several professions or callings concerned, appoint the following panels, none of which shall exceed six persons, that is to say—

- (a) a panel of medical practitioners;
- (b) a panel of dental practitioners;
- (c) a panel of registered pharmacists ;
- (d) a panel of medical practitioners having the qualifications prescribed under section forty-one of this Act;
- (e) a panel of ophthalmic opticians ; and
- (f) a panel of dispensing opticians.

5 If any of the members of the Tribunal is unable to act in any case, a deputy may be appointed by the Lord Chancellor or the Minister as in the case of the appointment of the member in question and, if the member is the chairman, the deputy shall possess the professional qualifications required for the office of chairman, and, if the member is the practitioner member, the deputy shall be appointed from the same panel.”

- (2) Nothing in this section shall affect the constitution of the said Tribunal for the purpose of inquiring into any case the inquiry into which has commenced before the passing of this Act.
- (3) This section shall apply to Scotland with the substitution for references to section forty-one of, and to the Seventh Schedule to, the Act of 1946 of references to section forty-two of, and to the Eighth Schedule to, the Act of 1947 and for the expressions " Lord Chancellor " and " Minister ", wherever they occur, of the expressions " Lord President of the Court of Session " and " Secretary of State ", respectively.

21 Removal of doubts as to power to prescribe certain qualifications.

- (1) It is hereby declared for the removal of doubts that any power conferred by the Act of 1946 to prescribe the qualifications to be possessed by any medical practitioner or ophthalmic or dispensing optician includes a power to prescribe a requirement that the practitioner or optician shall show, to the satisfaction of a committee recognised by the Minister for the purpose or to the satisfaction of the Minister acting on the advice of such a committee, that he "possesses such qualifications, including qualifications as to experience, as may be mentioned in the regulations.

- (2) In the application of this section to Scotland, for references to the Act of 1946 and to the Minister there shall be respectively substituted references to the Act of 1947 and to the Secretary of State.

22 Removal of doubts as to duties of local health authorities in connection with midwifery.

- (1) It is hereby declared for the removal of doubts that the duty of a local health authority under subsection (2) of section twenty-three of the Act of 1946 to secure that the number of certified midwives who are available in the authority's area for attendance on women in their homes as midwives, or as maternity nurses during childbirth and from time to time thereafter during a period not less than the lying-in period as therein defined, is adequate for the needs of the area includes a duty to secure that the midwives so available as aforesaid are enabled to render all services reasonably necessary for the proper care of the women upon whom they so attend.
- (2) It is hereby declared for the removal of doubts that the duty of a local health authority under subsection (2) of section twenty-three of the Act of 1947 to make adequate arrangements for the provision to women, by whom or on whose behalf application was made, of the services in their homes of certified mid-wives before and during childbirth and from time to time thereafter during a period not less than the lying-in period as therein defined, includes a duty to secure that the midwives whose services are so provided are enabled to render all services reasonably necessary for the appropriate care of the women upon whom they so attend.

23 Power of voluntary organisations to transfer property to local health authorities.

- (1) Notwithstanding anything contained in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own homes or of midwives, or in any trust deed or other instrument relating to any such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to a local health authority, on such terms as may be agreed between the authority and the organisation or trustees, with a view to the property being used or held by the authority for purposes similar to the purposes for which it was previously used or held.
- (2) This section shall be deemed to have had effect as from the fifth day of July, nineteen hundred and forty-eight.

24 Cost of conveyance of certain persons under s. 27 of Act.

Where a person has travelled from a place in the area of one local health authority to a hospital in the area of another local health authority for the purpose of attending at, or being accommodated in, that hospital in order to avail himself of any hospital or specialist services and, immediately after such attendance or on the termination of the period of his accommodation in the hospital (not being a period longer than three months beginning with the date of his admission to the hospital), he is conveyed by ambulance or other means of transport made available by the local health authority for the area in which the hospital is situated, in pursuance of their duty under section twenty-seven of the Act of 1946, from that hospital to the place from which he travelled as aforesaid or to any other place in the area of the local health authority within which

Status: This is the original version (as it was originally enacted).

the first-mentioned place is situated, the cost of that conveyance shall be repaid by the last-mentioned authority to the local health authority by whom the ambulance or other means of transport was made available as aforesaid:

Provided that any local health authority may agree to waive their rights under this section against any other local health authority, either in consideration of a periodical payment or without consideration.

25 Payment by local health authorities of certain remuneration and expenses to medical practitioners.

(1) Where a medical practitioner—

- (a) carries out a medical examination of any person with a view to an urgency order being made under section eleven of the Lunacy Act, 1890 ;
- (b) is called in by a justice of the peace under section sixteen of the said Act and carries out a medical examination of any person brought before the justice under that section;
- (c) carries out a medical examination of any person with a view to his being placed under section three of the Mental Deficiency Act, 1913, in an institution within the meaning of that Act or sent to such an institution under section six of that Act; or
- (d) carries out a medical examination of any person with a view to his treatment as a voluntary patient under subsection (2) of section one of the Mental Treatment Act, 1930, or his treatment as a temporary patient under section five of that Act;

the local health authority for the area where the person examined resides shall pay to that medical practitioner reasonable remuneration in respect of the said examination and in respect of any certificate or recommendation given by him with regard to the person examined and the amount of any expenses reasonably incurred by him in connection with the examination or the giving of any such certificate or recommendation:

Provided that—

- (a) no payment shall be made under this subsection to a medical practitioner in respect of an examination carried out as part of his duty to provide general medical services for the person examined or in respect of an examination carried out or any certificate or recommendation given as part of his duty as an officer of a Regional Hospital Board or a Board of Governors of a teaching hospital;
- (b) this subsection shall only apply in a case where it is intended, when the medical examination is carried out, that, if an urgency order or a summary reception order is made or the person examined is placed in or sent to such an institution as aforesaid or is treated as a voluntary or temporary patient as aforesaid, the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament under the Act of 1946.

(2) Section two hundred and eighty-five of the Lunacy Act, 1890 (which provides for the payment of remuneration and expenses to medical practitioners called in under the said section sixteen, if the justice of the peace so orders) shall cease to have effect.

26 Validation of certain orders continuing detention orders made under the Mental Deficiency Act, 1913.

- (1) Where the Board of Control have, before the commencement of this Act, purported to make an order under subsection (2) of section eleven of the Mental Deficiency Act, 1913, providing for the continuance of any detention order, but the Board have failed to make the order within the time limited by the said section eleven, then, unless it is shown that the order purported to have been made under the said subsection (2) was not made in good faith, the detention order purported to have been continued shall be deemed not to have expired and to have been duly continued as if the order purporting to continue it had been made within the required time and otherwise in conformity with the provisions of the said section eleven.
- (2) In this section the expression " detention order " means an order made under the Mental Deficiency Act, 1913, that a defective be sent to an institution for defectives, and the expression " institution for defectives " has the meaning assigned to it by that Act as amended by the Act of 1946.

27 Reception into mental hospital of person under sixteen as voluntary boarder.

A person under sixteen years of age shall not be received as a boarder in a mental hospital under section fifteen of the Lunacy (Scotland) Act, 1866, as amended by section fifty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913, on his own application, but may be so received on an application by his parent or guardian, and the said section as so amended shall, in its application to any such person, have effect subject to the following modifications—

- (a) for any reference to a person desirous of submitting himself to treatment there shall be substituted a reference to a person whose parent or guardian desires to submit him to treatment;
- (b) for any reference to notice by a boarder of intention or desire to leave the mental hospital there shall be substituted a reference to notice by the parent or guardian of the boarder of intention or desire to remove him from the mental hospital; and
- (c) notwithstanding anything in the aforesaid section fifty-nine, no person under the age of sixteen years shall be received into a mental hospital in pursuance of this section except with the previous assent in writing of one of the Commissioners of the General Board of Control for Scotland.

28 Recovery of expenses from in-patients engaged in remunerative employment.

Notwithstanding the provisions of subsection (2) of section one of the Act of 1946, or subsection (2) of section one of the Act of 1947, it shall be lawful, in the case of any person for whom the Minister or, as the case may be, the Secretary of State is providing hospital and specialist services as an in-patient and who is absent during the day from the hospital where he is a patient for the purpose of engaging in employment for which he is remunerated, for the Minister or Secretary of State to require that person to pay such part of the cost of his maintenance in the hospital and any costs incidental thereto, as may seem to the Minister or Secretary of State reasonable having regard to the amount of the remuneration, and the Minister or Secretary of State may recover the payment so required.

29 Minor amendments and repeal.

- (1) The amendments specified in Part I and Part II of the Schedule to this Act, being amendments of a minor character, shall be made in the Act of 1946 and the Act of 1947, respectively :

Provided that the amendments of the Fifth Schedule to the Act of 1946 and the Sixth Schedule to the Act of 1947 relating to the Chairman of an Executive Council shall, except in a case where the office of such a chairman is vacant at the passing of this Act, only take effect, in relation to each Executive Council, when the appointment of the person holding office as chairman at the date of the passing of this Act comes to an end.

- (2) Subsection (2) of section fourteen of the Midwives Act, 1918, as amended by subsection (2) of section two of the Mid-wives Act, 1926, (which requires a medical practitioner called in to assist a midwife in case of emergency to submit within two months his claim for the payment of a fee by the local health authority) shall be amended by the substitution for the words " two months " of the words " three months."
- (3) Section three of the Cancer Act, 1939 (which empowers the Minister to lend money to the National Radium Trust) shall cease to have effect.
- (4) In the application of subsection (2) of this section to Scotland, for the references to subsection (2) of section fourteen of the Midwives Act, 1918, and to subsection (2) of section two of the Midwives Act, 1926, there shall be respectively substituted references to subsection (2) of section twenty-two of the Midwives (Scotland) Act, 1915, and to subsection (2) of section four of the Midwives (Scotland) Act, 1927.

30 Expenses and receipts.

- (1) There shall be defrayed out of moneys provided by Parliament any increase attributable to the passing of this Act in any grants or sums payable under any other enactment out of moneys so provided.
- (2) All sums received by the Minister or Secretary of State under this Act shall be paid into the Exchequer.

31 Interpretation.

- (1) In this Act—
the expressions " the Act of 1946 " and " the Act of 1947 " have the meanings assigned to them by section one and section nine of this Act respectively ;
the expression " the appointed day" means the day appointed for the purposes of sections thirty-three to thirty-seven of the Act of 1946 and sections thirty-four to thirty-eight of the Act of 1947.
- (2) Other expressions used in this Act shall, in the application of this Act to England and Wales, have the same meanings as in the Act of 1946 and, in the application of this Act to Scotland, have the same meanings as in the Act of 1947.
- (3) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

32 Short title and extent.

- (1) This Act may be cited as the National Health Service (Amendment) Act, 1949, and this Act, so far as it applies to England and Wales, and the Act of 1946 may be cited together as the National Health Service Acts, 1946 and 1949, and this Act, so far as it applies to Scotland, and the Act of 1947 may be cited together as the National Health Service (Scotland) Acts, 1947 and 1949.
- (2) This Act shall not extend to Northern Ireland.
- (3) Subsection (3) of section eighty of the Act of 1946 (Which provides for the extension of that Act to the Isles of Scilly) shall have effect as if the references to that Act included references to this Act.