



National Health Service (Amendment) Act 1949

1949 CHAPTER 93 12 13 and 14 Geo 6

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 ^{M1}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

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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 purchase 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

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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.

Marginal Citations

M1 1946 c. 81.

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