

STATUTORY INSTRUMENTS

**2015 No. 1862**

**The National Health Service (General Medical Services Contracts) Regulations 2015**

**PART 5**

Contracts: required terms

**[<sup>F1</sup>Disclosure of information about NHS earnings: contractors and sub-contractors**

**27A.**—(1) A contract which is with a contractor who is an individual medical practitioner or a partnership must contain the term specified in paragraph (2).

(2) The term is—

- (a) if the contract is with a contractor who is an individual medical practitioner, a term which requires the contractor to comply with the disclosure obligation for each relevant financial year in which—
  - (i) they are a contractor, and
  - (ii) their NHS earnings exceed the relevant threshold;
- (b) if the contract is with a contractor who is partnership, a term which requires each partnership member to comply with the disclosure obligation for each relevant financial year in which—
  - (i) the partnership is a contractor, and
  - (ii) the partnership member’s NHS earnings exceed the relevant threshold.

(3) In this regulation—

- (a) the disclosure obligation, in relation to a relevant financial year, is the requirement for an individual (“I”) to submit the following information for publication to [<sup>F2</sup>NHS England]<sup>F3</sup> by the disclosure date—
  - (i) I’s name,
  - (ii) I’s job title,
  - (iii) the details of each organisation from which I has derived NHS earnings in that financial year, and
  - (iv) the amount of I’s NHS earnings for that financial year;
- (b) <sup>F4</sup>... “relevant financial year” means a financial year <sup>F5</sup> ending—
  - (i) on or after 31st March [<sup>F6</sup>2022], but
  - (ii) on or before 31st March 2024;

<sup>F7</sup>(ba) .....

(c) “relevant threshold” means—

<sup>F8</sup>(i) .....

**Status:** Point in time view as at 01/02/2023.

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- F<sup>9</sup>(ii) . . . . .
- (iii) for the financial year ending on 31st March 2022, £156,000;
- (iv) for the financial year ending on 31st March 2023, £159,000;
- (v) for the financial year ending on 31st March 2024, £163,000.

[F<sup>10</sup>(4) For the purposes of paragraph (3)(a) “the disclosure date”, in relation to a relevant financial year, is 30<sup>th</sup> April in the financial year which begins immediately after the end of the next financial year.]

(5) For the purposes of paragraph (4) “the next financial year”, in relation to a financial year (“FY1”), is the financial year which begins immediately after the end of FY1 F<sup>11</sup>....

(6) A contract must also include a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the contract unless—

- (a) where the sub-contractor is an individual, the sub-contract entered into by the contractor requires the individual to comply with the disclosure obligation for each relevant financial year in which the individual’s NHS earnings exceed the relevant threshold;
- (b) where the sub-contractor is a partnership, the sub-contract entered into by the contractor requires each sub-contractor partnership member to comply with the disclosure obligation for each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant financial threshold;
- (c) in all cases, the sub-contract prohibits the sub-contractor (“S”) from sub-contracting, where permitted by paragraph 44(9A) of Schedule 3, any of the clinical services S has agreed with the contractor to provide under the sub-contract unless—
  - (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation for each financial year in which I’s NHS earnings exceed the relevant threshold;
  - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member of that partnership to comply with the disclosure obligation for each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant threshold.

(7) A contract must also include a term requiring the contractor to use reasonable endeavours to ensure that any relevant sub-contract is amended to contain the terms specified in paragraph (9).

- (8) For the purposes of paragraph (7) “relevant sub-contract” means a sub-contract—
  - (a) for the provision of any of the clinical services which the contractor is required to provide under the contract by any other person, and
  - (b) which is in force at the time when [F<sup>12</sup>the term in paragraph (7) is incorporated into the contract].

- (9) The terms are—
  - (a) a term which requires—
    - (i) the sub-contractor (“S”), where S is an individual, or
    - (ii) each sub-contractor partnership member, where S is a partnership,
 to comply with the disclosure obligation for each relevant financial year in which the individual’s, or as the case may be, sub-contractor partnership member’s NHS earnings exceed the relevant threshold, F<sup>13</sup>...
  - (b) a term which prevents S from sub-contracting obligations to provide clinical services under the contract, where permitted by paragraph 44(9A) of Schedule 3, unless—

- (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation in relation to each financial year in which I’s <sup>F14</sup>NHS] earnings exceed the relevant threshold;
  - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member of that partnership to comply with the disclosure obligation in relation to each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant threshold <sup>F15</sup>, and
- (c) a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in sub-paragraph (b) was incorporated into that sub-contract is amended to—
- (i) include the term in paragraph (i) of sub-paragraph (b) in a sub-contract between S and I, and
  - (ii) include the term in paragraph (ii) of sub-paragraph (b) in a sub-contract between S and a partnership.]
- (10) Nothing in paragraph (6), (7) or (9) requires any individual to comply with the disclosure obligation for any relevant financial year which—
- (a) ends before the individual or partnership (as the case may be) enters into a sub-contract with the contractor or a sub-contractor;
  - (b) begins after the individual’s, or, as the case may be, partnership’s, sub-contract with the contractor or sub-contractor has terminated.
- (11) In this regulation—
- “locum practitioner” has the meaning given in Schedule 15 to the National Health Service Pension Scheme Regulations 2015 <sup>F16</sup>;
- “NHS earnings” has the meaning given in regulation 27B;
- “partnership member”, in relation to a contractor who is a partnership, means an individual who is a partner in that partnership;
- “sub-contractor” means a person to whom any rights or duties under the contract in relation to clinical matters are, or have been, sub-contracted under paragraph 44(1) of Schedule 3, and includes an individual who is a locum practitioner;
- “sub-contractor partnership member”, in relation to a sub-contractor who is a partnership, means an individual who is a partner in that partnership.]

#### Textual Amendments

- F1** Regs. 27A, 27B inserted (1.10.2021) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 2) Regulations 2021 (S.I. 2021/995), reg. 1(2), **Sch. 1 para. 1** (with reg. 3)
- F2** Words in reg. 27A(3)(a) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 52(3)** (with reg. 3)
- F3** The Health and Social Care Information Centre (known as NHS Digital) is a body corporate established under section 252(1) of the Health and Social Care Act 2012. The information must be submitted to NHS Digital through its Strategic Data Collection Service, available at <https://datacollection.sdcs.digital.nhs.uk>.

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- F4** Words in reg. 27A(3)(b) omitted (1.10.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(1)(i)**
- F5** “Financial year” is defined in section 275(1) of the National Health Service Act 2006.
- F6** Word in reg. 27A(3)(b)(i) substituted (1.10.2022) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(1)(ii)**
- F7** Reg. 27A(3)(ba) omitted (1.10.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(1)(iii)**
- F8** Reg. 27A(3)(c)(i) omitted (1.10.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(1)(iv)**
- F9** Reg. 27A(3)(c)(ii) omitted (27.4.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2022 (S.I. 2022/404), regs. 1(2), **2(2)(a)(iii)**
- F10** Reg. 27A(4) substituted (1.10.2022) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(2)**
- F11** Words in reg. 27A(5) omitted (27.4.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2022 (S.I. 2022/404), regs. 1(2), **2(2)(c)**
- F12** Words in reg. 27A(8)(b) substituted (1.10.2022) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(3)**
- F13** Word in reg. 27A(9)(a) omitted (1.10.2022) by virtue of The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(4)**
- F14** Word in reg. 27A(9)(b)(i) inserted (1.10.2022) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(5)**
- F15** Reg. 27A(9)(c) and word inserted (1.10.2022) by The National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022 (S.I. 2022/935), reg. 1(b), **Sch. 1 para. 9(6)**
- F16** S.I. 2015/94.

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