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2008 CHAPTER 2

Dental services

PROSPECTIVE

Provision of dental services

2.—(1) After Article 60 of the Order of 1972 (prohibition of sale of, etc. medical practices), omit the cross-heading “General Dental Services, General Ophthalmic Services and Pharmaceutical Services” and insert—

“Primary dental services

Primary dental services

60A.—(1) [^{F1}The Department] shall, to the extent that it considers necessary to meet all reasonable requirements, ^{F2}... provide primary dental services ^{F3}..., or secure their provision ^{F3}....

(2) [^{F4}The Department] may (in addition to any other power conferred on it)—

- (a) provide primary dental services itself ^{F5}...;
- (b) make such arrangements for their provision ^{F5}... as it thinks fit, and may in particular make contractual arrangements with any person.

(3) [^{F6}The Department] shall publish information about such matters as may be prescribed in relation to the primary dental services provided under this Part.

^{F7}(4)

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(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 this Article may in particular describe services by reference to the manner or circumstances in which they are provided.”

(2) For Article 61 of the Order of 1972 (arrangements for general dental services) substitute—

“General dental services contracts

General dental services contracts: introductory

61.—(1) [^{F8}The Department] 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 Article is called in this Order 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 [^{F9}the Department] 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 dental services contract may include—

- (a) services which are not primary dental services;
- ^{F10}(b)

(5) In this Part, “contractor”, in relation to a general dental services contract, means any person entering into the contract with [^{F9}the Department]

Requirement to provide certain primary dental

61A.—(1) A general dental services contract shall 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 paragraph (1) may in particular prescribe services by reference to the manner or circumstances in which they are provided.

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Persons eligible to enter into general dental services contracts

61B.—(1) [^{F11}The Department] 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 paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (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 [^{F12}HSC employee];
 - (ii) an Article 15B employee, a section 28C employee or a section 17C employee;
 - (iii) a health care professional who is engaged in the provision of services under this Order; or
 - (iv) an individual falling within Article 15C(1)(c)(iii).

(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 Article—

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

“health care professional” has the same meaning as in Article 15C;

“[^{F12}HSC employee]”, “Article 15B employee”, “section 28C employee” and “section 17C employee” have the same meaning as in Article 15C.

General dental services contracts: payments

61C.—(1) The Department may [^{F13}make a scheme providing for] 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 [^{F14}any scheme] for the time being in force under this Article.

(3) Without prejudice to the generality of the power under paragraph (1) [^{F15}a scheme] under that paragraph may—

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- (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) [^{F16}any method of calculation] or scale specified in the [^{F17}scheme] ; or
 - (ii) a determination made by any person in accordance with factors specified in the [^{F17}scheme] ;
 - (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 [^{F18}the Department] only if it is satisfied as to certain conditions);
 - (e) make provision having effect from a date before the date of the [^{F17}scheme] , provided that, having regard to the [^{F17}scheme] as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before [^{F19}making a scheme] under paragraph (1), the Department—
- (a) shall consult any body appearing to it to be representative of persons to whose remuneration the [^{F20}scheme] would relate, and
 - (b) may consult such other persons as it thinks appropriate.
- [^{F21}(4A) The Department must publish a scheme under paragraph (1) in such manner as it thinks appropriate.]
- (5) References in this Article to payments include fees, allowances, reimbursements, loans and repayments.

General dental services contracts: other required terms

61D.—(1) A general dental services contract shall contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

(2) Regulations under paragraph (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);

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- (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 paragraph (2)(d) may make provision as to the circumstances in which [^{F22}the Department] may impose a variation of contract terms.

(4) Regulations under paragraph (1) shall make provision as to the right of patients to choose the persons from whom they are to receive services.

General dental services contracts: disputes and enforcement

61E.—(1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general dental services contract.

(2) Regulations under paragraph (1) [^{F23}in particular] may make provision—

- (a) for the referral of the terms of the proposed contract to [^{F24}a prescribed body] ; and
- (b) for [^{F25}that body] to determine the terms on which the contract may be entered into.

[^{F26}(2A) Regulations making provision as to the matters referred to in paragraph (2)(a) and (b) may make provision—

- (a) as to the members of the body, including the terms and conditions of their appointment;
- (b) for the payment of fees and allowances to members of the body.]

(3) Regulations may make provision for a person or persons entering into a general dental services contract to be regarded as a health and [^{F27}social care] body for any purposes of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991, in circumstances where he or they so elect.

(4) Regulations under paragraph (3) may include provision as to the application of Article 8 of that Order in cases where—

- (a) persons practising in partnership elect to become a health and [^{F27}social care] body; and
- (b) there is a change in the membership of the partnership.

(5) Where—

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- (a) by virtue of regulations under paragraph (3), paragraph (8) of Article 8 of that Order applies in relation to a general dental services contract, and
- (b) a direction as to payments is made under that paragraph 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.”

^{F28} “Persons performing primary dental services]

^{F29} Persons performing primary dental services]

61F.—^{F30}(1) Regulations may provide that a health care professional of a prescribed description may not perform any primary dental service for which ^{F31}the Department] is responsible unless that professional is included in a list maintained under the regulations by the Regional Board.]

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- ^{F32}(b) ^{F31}the Department] is responsible for a primary dental service if it provides the service, or secures provision of the service, under or by virtue of Article 60A.]

(3) Paragraphs (3), (3A) ^{F33}and (3B)] of Article 57G shall apply for the purposes of regulations made under paragraph (1) above in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article.”

Textual Amendments

- F1** Words in s. 2(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(2\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F2** Words in s. 2(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(2\)\(b\)](#); S.R. 2022/102, art. 2(b)
- F3** Words in s. 2(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(2\)\(c\)](#); S.R. 2022/102, art. 2(b)
- F4** Words in s. 2(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(3\)\(a\)](#); S.R. 2022/102, art. 2(b)
- F5** Words in s. 2(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(3\)\(b\)](#); S.R. 2022/102, art. 2(b)
- F6** Words in s. 2(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(4\)](#); S.R. 2022/102, art. 2(b)
- F7** Words in s. 2(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 217\(5\)](#); S.R. 2022/102, art. 2(b)

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- F8** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 218(2)**; S.R. 2022/102, art. 2(b)
- F9** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 218(3)**; S.R. 2022/102, art. 2(b)
- F10** Words in s. 2(2) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 218(4)**; S.R. 2022/102, art. 2(b)
- F11** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 219**; S.R. 2022/102, art. 2(b)
- F12** Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(f)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F13** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(2)**; S.R. 2022/102, art. 2(b)
- F14** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(3)**; S.R. 2022/102, art. 2(b)
- F15** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(4)(a)**; S.R. 2022/102, art. 2(b)
- F16** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(4)(c)**; S.R. 2022/102, art. 2(b)
- F17** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(4)(b)**; S.R. 2022/102, art. 2(b)
- F18** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(4)(d)**; S.R. 2022/102, art. 2(b)
- F19** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(5)(a)**; S.R. 2022/102, art. 2(b)
- F20** Word in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(5)(b)**; S.R. 2022/102, art. 2(b)
- F21** Words in s. 2(2) inserted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 220(6)**; S.R. 2022/102, art. 2(b)
- F22** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 221**; S.R. 2022/102, art. 2(b)
- F23** Words in s. 2(2) inserted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 222(2)(a)**; S.R. 2022/102, art. 2(b)
- F24** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 222(2)(b)**; S.R. 2022/102, art. 2(b)
- F25** Words in s. 2(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 222(2)(c)**; S.R. 2022/102, art. 2(b)
- F26** Words in s. 2(2) inserted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 222(3)**; S.R. 2022/102, art. 2(b)
- F27** Words in Act substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(a)** (with Sch. 6 para. 1(2)(3)); S.R. 2009/114, **art. 2**
- F28** Words in s. 2(2) inserted (13.6.2016) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2016 (c. 26), **ss. 9(2)**, 20

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- F29** Words in s. 2(2) substituted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 9\(3\)\(a\), 20](#)
- F30** Words in s. 2(2) substituted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 9\(3\)\(b\), 20](#)
- F31** Words in s. 2(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 223\(2\); S.R. 2022/102, art. 2\(b\)](#)
- F32** Words in s. 2(2) substituted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016 \(c. 26\), ss. 9\(3\)\(c\), 20](#)
- F33** Words in s. 2(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 223\(3\); S.R. 2022/102, art. 2\(b\)](#)

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Changes and effects yet to be applied to :

- s. 2(1) words omitted by 2022 c. 3 (N.I.) Sch. 1 para. 217(2)(b)
- s. 2(1) words omitted by 2022 c. 3 (N.I.) Sch. 1 para. 217(2)(c)
- s. 2(1) words omitted by 2022 c. 3 (N.I.) Sch. 1 para. 217(3)(b)
- s. 2(1) words omitted by 2022 c. 3 (N.I.) Sch. 1 para. 217(5)
- s. 2(1) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 1(5)(b)
(Amendment not required. All amendment are complete on s. 2(1) and 2(2).
There is no Sch. 1 para. 1(5)(b))
- s. 2(1) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 217(2)(a)
- s. 2(1) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 217(3)(a)
- s. 2(1) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 217(4)
- s. 2(2) word substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(5)(b)
- s. 2(2) words inserted by 2022 c. 3 (N.I.) Sch. 1 para. 220(6)
- s. 2(2) words inserted by 2022 c. 3 (N.I.) Sch. 1 para. 222(2)(a)
- s. 2(2) words inserted by 2022 c. 3 (N.I.) Sch. 1 para. 222(3)
- s. 2(2) words omitted by 2022 c. 3 (N.I.) Sch. 1 para. 218(4)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 218(2)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 218(3)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 219
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(2)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(3)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(4)(a)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(4)(b)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(4)(c)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(4)(d)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 220(5)(a)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 221
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 222(2)(b)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 222(2)(c)
- s. 2(2) words substituted by 2022 c. 3 (N.I.) Sch. 1 para. 223(2)

– s. 2(2) words substituted by [2022 c. 3 \(N.I.\) Sch. 1 para. 223\(3\)](#)