

STATUTORY INSTRUMENTS

1997 No. 1177

The Health Services (Primary Care) (Northern Ireland) Order 1997

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Health Services (Primary Care) (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Department may by order appoint^{F1}.

(3) The Department may not make an order under paragraph (2) bringing Article 21 into operation unless it is satisfied, having regard in particular to reviews of pilot schemes which have been conducted under Article 9, that it would be in the interests of any part of the [^{F2}health care] to bring Article 21 into operation.

(4) An order under paragraph (2) may contain such transitional provisions or savings as the Department considers appropriate.

(5) [^{F3}An][^{F4}HSC trust] is to be taken as having, at any time before the coming into operation of any provision of this Order, power to prepare for that coming into operation.

F1 partly exercised by SR 1997/524;1998/301;2004/133

F2 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

F3 Word in [art. 1\(5\)](#) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 172](#); S.R. 2022/102, [art. 2\(b\)](#)

F4 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(d\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) Subject to paragraph (3), this Order is to be read as one with the 1972 Order.

(3) In this Order—

^{F5}
...

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“pilot scheme” and “piloted services” have the meaning given in Article 3;

“regulations” means regulations under this Order.

- (4) Except in Articles 15B and 15D of the 1972 Order—
 - (a) references in any statutory provision to arrangements made under Article 15B of the 1972 Order are to be read, except where the context otherwise requires, as including references to pilot schemes; and
 - (b) references in any statutory provision to services under Article 15B of the 1972 Order, or to services provided in accordance with arrangements made under that Article, are to be read, except where the context otherwise requires, as including references to piloted services.

F5 Words in art. 2(3) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 173](#); S.R. 2022/102, art. 2(b)

F⁶ PART II

PILOT SCHEMES FOR PRIMARY CARE

F6 Pt. II (arts. 3-20) repealed (prosp.) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\)](#), ss. 17, 18(2)(b), [Sch. 2 Pt. 2](#)

Modifications etc. (not altering text)

C1 Pt. II (arts. 3-20) modified (prosp.) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\)](#), ss. 6, 18(2)(a)

Preparation and making of pilot schemes

Pilot schemes

3.—(1) In this Order “pilot scheme” means one or more agreements made by [^{F7}the Department] in accordance with this Part under which—

- ^{F8}(a)
- (b) personal dental services are provided (otherwise than by [^{F9}the Department]).

^{F10}(2)

(3) A pilot scheme may include arrangements for the provision of [^{F11}health care]—

- (a) which are not ^{F12}... personal dental services; but
- (b) which may be provided under Part II of the 1972 Order.

(4) In this Order “piloted services” means services provided in accordance with a pilot scheme (including any services to which the scheme applies by virtue of paragraph (3)).

(5) Except to such extent as may be prescribed—

- ^{F13}(a)
- (b) a patient for whom personal dental services are provided under a pilot scheme is not to count as a person for whom arrangements must be made by [^{F14}the Department] under Article 61 of the 1972 Order.

(6) The functions of an [^{F15}HSC trust] include power to provide piloted services, and to do so as a member of a qualifying body (within the meaning of Article 4 or 5).

(7) For the purposes of this Part—

F16 ...

“personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part VI of the 1972 Order.

- F7 Words in art. 3(1) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(2)(a)**; S.R. 2022/102, art. 2(b)
- F8 Art. 3(1)(a) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(2)(b)**; S.R. 2022/102, art. 2(b)
- F9 Words in art. 3(1)(b) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(2)(c)**; S.R. 2022/102, art. 2(b)
- F10 Art. 3(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. 174(3)**; S.R. 2022/102, art. 2(b)
- F11 Words in Order 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)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F12 Words in art. 3(3)(a) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(4)**; S.R. 2022/102, art. 2(b)
- F13 Art. 3(5)(a) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(5)(a)**; S.R. 2022/102, art. 2(b)
- F14 Words in art. 3(5)(b) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(5)(b)**; S.R. 2022/102, art. 2(b)
- F15 Words in Order 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)(d)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**
- F16 Words in art. 3(7) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 174(6)**; S.R. 2022/102, art. 2(b)

Provision of personal medical services under a pilot scheme

F17 4.

- F17 Art. 4 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 175**; S.R. 2022/102, art. 2(b)

Provision of personal dental services under a pilot scheme

5.—(1) This Article applies to any pilot scheme under which personal dental services are provided.

(2) An agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme may be made by [F18 the Department] only with one or more of the following—

- (a) an [F19 HSC trust];
- (b) a dental practitioner whose name is included in a dental list;
- (c) an [F20 HSC employee] or a pilot scheme employee;
- (d) a qualifying body;
- (e) an individual who is providing personal dental services under that or another pilot scheme.

(3) In this Article—

“dental list” means a list prepared in accordance with regulations under Article 61(2)(a) of the 1972 Order;

“^{F20}HSC employee]” means an individual who, in connection with the provision of [^{F21}health care], is employed by—

- (a) an [^{F19}HSC trust];
- (b) a dental practitioner whose name is included in a dental list; or
- (c) a dental practitioner who is providing personal dental services in accordance with a pilot scheme;

“pilot scheme employee” means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by an individual providing those services;

“qualifying body” means—

- (a) 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; or
- (b) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2).

F18	Words in art. 5(2) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3) , s. 8(1)(b) , Sch. 1 para. 176 ; S.R. 2022/102, art. 2(b)
F19	Words in Order 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)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2
F20	Words in Order 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
F21	Words in Order 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)(b) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2

Proposals for pilot schemes

^{F22}6.

F22	Art. 6 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3) , s. 8(1)(b) , Sch. 1 para. 177 ; S.R. 2022/102, art. 2(b)
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Approval of pilot schemes

^{F23}7.

F23	Art. 7 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3) , s. 8(1)(b) , Sch. 1 para. 177 ; S.R. 2022/102, art. 2(b)
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^{F24}Implementation of pilot schemes

8.—(1) Before implementing a pilot scheme the Department must—

- (a) prepare proposals for the scheme, and
- (b) consult such persons as appear to it to be representative of persons who, in the opinion of the Department, may be significantly affected by the scheme.

(2) Proposals for a pilot scheme must include satisfactory provision for any participant other than the Department to withdraw from the scheme if the participant wishes to do so.

(3) A proposed participant in a pilot scheme (other than the Department) may withdraw at any time before the scheme is implemented in relation to that person.

(4) As soon as is reasonably practicable after implementing a pilot scheme, the Department must publish such details of the scheme as it considers to be appropriate.]

F24 Art. 8 substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 178](#); S.R. 2022/102, art. 2(b)

Reviews of pilot schemes

Reviews of pilot schemes

9.—(1) At least one review of the operation of each pilot scheme must be conducted by the Department.

(2) Each pilot scheme must be reviewed under this Article before the end of the period of three years beginning with the date on which piloted services are first performed under the scheme.

(3) When conducting a review of a pilot scheme, the Department must give—

^{F25}(a)

(b) any person providing services under the scheme,

an opportunity to comment on any matter relevant to the review.

(4) Otherwise, the procedure on any review is to be determined by the Department.

F25 Art. 9(3)(a) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 179](#); S.R. 2022/102, art. 2(b)

Variation and termination of pilot schemes

Variation and termination of pilot schemes

10.—(1) The Department may [^{F26}vary a pilot scheme that has been implemented.]

(2) [^{F27}The Department may vary a pilot scheme under paragraph (1)] —

(a) in response to a request made by [^{F28}any] participant in the scheme; or

(b) on the Department's own initiative.

[^{F29}(3) A participant in a pilot scheme (other than the Department) may withdraw at any time before a variation of the scheme is implemented in relation to that person.

(3A) As soon as is reasonably practical after implementing a variation, the Department must publish such details of the scheme as varied as it considers to be appropriate.]

(4) If the Department is satisfied that a pilot scheme is (for any reason) unsatisfactory, it may [^{F30}bring the scheme to an end.]

F26 Words in art. 10(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 180\(2\)](#); S.R. 2022/102, art. 2(b)

F27 Words in art. 10(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 180\(3\)\(a\)](#); S.R. 2022/102, art. 2(b)

- F28** Word in art. 10(2)(a) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 180(3)(b)**; S.R. 2022/102, art. 2(b)
- F29** Art. 10(3)(3A) substituted for art. 10(3) (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 180(4)**; S.R. 2022/102, art. 2(b)
- F30** Words in art. 10(4) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 180(5)**; S.R. 2022/102, art. 2(b)

General

Relationship between this Part and the 1972 Order

11.—(1) The provisions of the 1972 Order^{F31}... apply in relation to functions of the Department under this Part as if they were functions of the Department under Part II of that Order.

(2) The 1972 Order has effect in relation to piloted services—

(a) subject to any provision of, or made under, this Part; ^{F32}...

^{F32}(b)

^{F33}(3)

- F31** Words in art. 11(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. 181(2)**; S.R. 2022/102, art. 2(b)
- F32** Art. 11(2)(b) and word omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 181(3)**; S.R. 2022/102, art. 2(b)
- F33** Art. 11(3) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 181(4)**; S.R. 2022/102, art. 2(b)

Medical practitioners to be suitably experienced

^{F34}**12.**

- F34** Art. 12 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 182**; S.R. 2022/102, art. 2(b)

Leaving medical lists

^{F35}**13.**

- F35** Art. 13 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 182**; S.R. 2022/102, art. 2(b)

Preferential treatment on transferring to medical lists

^{F36}**14.**

- F36** Art. 14 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 182**; S.R. 2022/102, art. 2(b)

Art. 15 rep. by 2001 c. 3 (NI)

Liabilities and obligations in relation to deputies

^{F37}16.

F37 Art. 16 omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 182**; S.R. 2022/102, art. 2(b)

[^{F38}HSC contracts]

17.—(1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate, that individual or body may make an application under this Article to become a [^{F39}health care] body.

(2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this Article to become a single [^{F39}health care] body.

(3) An application must—

- (a) be made to the Department in accordance with such provisions as may be prescribed; and
- (b) specify the pilot scheme in relation to which it is made.

(4) Except in such cases as may be prescribed, the Department may grant an application.

(5) If an application is granted, the Department must specify when it is to come into effect and, as from that time—

- (a) in the case of an application under paragraph (1), the applicant is; and
- (b) in the case of an application under paragraph (2), the applicants together are,

a [^{F39}health care] body for the purposes of Article 8 of the 1991 Order ([^{F38}HSC contracts]).

(6) That Article has effect in relation to such a [^{F39}health care] body (“a pilot scheme [^{F39}health care] body”) as if the functions referred to in paragraph (1) of that Article were the provision of piloted services.

(7) Except in such circumstances as may be prescribed, a pilot scheme [^{F39}health care] body resulting from an application under paragraph (2) is to be treated, at any time, as consisting of those providing piloted services under the scheme.

(8) A direction as to payment made under Article 8(8) of the 1991 Order against, or in favour of, a pilot scheme [^{F39}health care] body is enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

(9) Regulations may provide for a pilot scheme [^{F39}health care] body to cease to be such a body in prescribed circumstances.

(10) The Department must—

- (a) maintain and publish a list of pilot scheme [^{F39}health care] bodies;
- (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

(11) The list is to be published in such manner as the Department considers appropriate.

F38 Words in Order substituted (1.4.2009) by virtue of Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(e)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

F39 Words in Order 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)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**

Financial provisions

Funding of preparatory work

18.—(1) Provision may be made by regulations for [^{F40}the Department] to make payments of financial assistance for preparatory work.

- (2) “Preparatory work” means work which it is reasonable for a person to undertake—
- (a) in connection with preparing proposals for a pilot scheme; or
 - (b) in preparing for the provision by him of any piloted services.
- (3) Regulations under this Article may, in particular, include provision—
- (a) prescribing the circumstances in which payments of financial assistance may be made;
 - (b) imposing a limit on the amount of any payment of financial assistance which [^{F41}the Department] may make in any prescribed period in respect of any one person or any one pilot scheme;
 - (c) imposing a limit on the aggregate amount which [^{F41}the Department] may pay by way of financial assistance in any one financial year;
 - (d) requiring a person to whom assistance is given under this Article to comply with such conditions as may be imposed in accordance with prescribed requirements; and
 - (e) for repayment in the case of a failure to comply with any condition so imposed.

F40 Words in art. 18(1) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 183(2)**; S.R. 2022/102, art. 2(b)

F41 Words in art. 18(3) substituted (1.4.2022) by Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 183(3)**; S.R. 2022/102, art. 2(b)

Art. 19 rep. by 2001 c. 3 (NI)

Charges for dental treatment

20.—(1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for dental treatment provided in accordance with pilot schemes.

(2) “Dental treatment” means personal dental services other than those to which paragraph 1(a)(k) of Schedule 15 to the 1972 Order applies.

(3) The regulations must secure that the amount charged for a particular treatment (or course of treatment) is the same as the amount that would be charged for that treatment (or course of treatment) if it were provided under Part VI of the 1972 Order.

- (4) The regulations may—
- (a) provide for the amount or the maximum amount of any charge authorised by the regulations to be varied in prescribed circumstances; or
 - (b) give power to direct that the charge is not to be payable.

(5) If, under a contract or arrangement, a patient receives—

- (a) services for which a charge is payable under paragraph 1(a)(iaa) of Schedule 15 to the 1972 Order; and
- (b) treatment for which a charge is payable under the regulations,

the total charge for those services and that treatment is not to exceed such sum as may be prescribed.

(6) No charge is to be made under the regulations in respect of treatment provided for any person who, at the time of the making of the contract or arrangement under which the treatment is provided—

- (a) was under 18;
- (b) was under 19 and receiving qualifying full-time education;
- (c) was pregnant; or
- (d) had given birth within the previous twelve months.

(7) In paragraph (6)(b) “qualifying full-time education” has the same meaning as in paragraph 2A(3) of Schedule 15 to the 1972 Order.

(8) The regulations may provide, with respect to any exemption under paragraph (6), that it is to be a condition of the exemption that—

- (a) a declaration of the prescribed kind is made in the prescribed form or manner; or
- (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.

PART III

PRIMARY CARE

Personal medical or dental services

Provision of personal medical or dental services

21. In the 1972 Order, after Article 15A, insert—

“Provision of personal medical or dental services

Personal medical or dental services

15B.—(1) A Health and Social Services Board may make one or more agreements with respect to its area, in accordance with the provisions of regulations under Article 15D, under which—

- (a) personal medical services are provided (otherwise than by the Board); or
 - (b) personal dental services are provided (otherwise than by the Board).
- (2) An agreement made under this Article—
- (a) may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services; but
 - (b) may include arrangements for the provision of [^{F42}health care]—
 - (i) which are not personal medical services or personal dental services; but
 - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
- (a) a patient for whom personal medical services are provided in accordance with an agreement made under this Article is not to count as a person for whom arrangements must be made by the Health and Social Services Board concerned under Article 56;

(b) a patient for whom personal dental services are provided under an agreement made under this Article is not to count as a person for whom arrangements must be made by the Health and Social Services Board concerned under Article 61.

(4) This Order has effect, in relation to personal medical services or personal dental services provided under an agreement made under this Article, as if those services were provided as a result of the delegation by the Department (by directions given under Article 17) of functions of the Department under this Part.

(5) The functions of a Health and Social Services Board in relation to an agreement made under this Article are primary functions of the Board for the purposes of Article 9 of the 1991 Order.

(6) For the purposes of this Article—

“personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part VI; and

“personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part VI.

Persons with whom agreements may be made

15C.—(1) A Health and Social Services Board may make an agreement under Article 15B only with one or more of the following—

- (a) an ^{F43}HSC trust];
- (b) in the case of an agreement under which personal medical services are provided—
 - (i) a qualifying medical practitioner;
 - (ii) an individual who is providing personal medical services in accordance with Article 15B arrangements;
- (c) in the case of an agreement under which personal dental services are provided—
 - (i) a qualifying dental practitioner;
 - (ii) an individual who is providing personal dental services in accordance with Article 15B arrangements;
- (d) an ^{F44}HSC employee] or an Article 15B employee;
- (e) a qualifying body.

(2) In this Article—

“^{F44}HSC employee]” means an individual who, in connection with the provision of ^{F42}health care], is employed by—

- (a) an ^{F43}HSC trust];
- (b) in the case of an agreement under which personal medical services are provided—
 - (i) a medical practitioner whose name is included in a medical list; or
 - (ii) a medical practitioner who is providing personal medical services in accordance with Article 15B arrangements;
- (c) in the case of an agreement under which personal dental services are provided—
 - (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under Article 61(2)(a); or
 - (ii) a dental practitioner who is providing personal dental services in accordance with Article 15B arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraphs (a) to (d) of paragraph (1); and also
- (b) in the case of an agreement under which personal dental services are provided, 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;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under Article 15D(2)(b);

“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under Article 15D(2)(b);

“Article 15C employee” means an individual who, in connection with the provision of services in accordance with Article 15C arrangements, is employed by an individual providing those services.”.

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| <p>F42 Words in Order 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)(b) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2</p> <p>F43 Words in Order 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)(d) (with Sch. 6 para. 1(3)); S.R. 2009/114, art. 2</p> <p>F44 Words in Order 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</p> |
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Supplementary regulations

22. In the 1972 Order, after Article 15C, insert—

“Personal medical or dental services: regulations

15D.—(1) The Department may make regulations with respect to the provision of services in accordance with Article 15B arrangements.

(2) The regulations must—

- (a) include provision for participants other than Health and Social Services Boards to withdraw from Article 15B arrangements if they wish to do so;
- (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and dental practitioners performing personal dental services, in accordance with Article 15B arrangements.

In sub-paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

(3) The regulations may, in particular—

- (a) provide that Article 15B arrangements may be made only in prescribed circumstances;
- (b) provide that Article 15B arrangements may be made only in prescribed areas;
- (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with Article 15B arrangements;
- (d) require details of Article 15B arrangements to be published;

- (e) make provision with respect to the variation and termination of Article 15B arrangements;
 - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with Article 15B arrangements from providing general medical services;
 - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
 - (h) provide for parties to Article 15B arrangements to be treated, in such circumstances and to such extent as may be prescribed, as [^{F45}health care] bodies for the purposes of Article 8 of the 1991 Order;
 - (i) provide for directions, as to payments, made under Article 8(8) of the 1991 Order (as it has effect as a result of regulations made by virtue of sub-paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;
 - (j) authorise Health and Social Services Boards to make payments of financial assistance for prescribed categories of preparatory work undertaken—
 - (i) in connection with preparing proposals for Article 15B arrangements; or
 - (ii) in preparation for the provision of services under proposed Article 15B arrangements.
- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with Article 15B arrangements; and
 - (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Department that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.
- For the purposes of this paragraph “fund-holding status” has such meaning as may be prescribed.
- (5) The Department must—
- (a) consider whether Article 15B arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in Northern Ireland;
 - (b) if it thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
 - (c) if it thinks that it is necessary, include such provisions in the regulations.
- (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of paragraph (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978.
- (7) Regulations made by virtue of paragraph (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) Health and Social Services Boards to remove from their medical lists persons who are performing personal medical services in accordance with Article 15B arrangements;

- (b) conferring a right to transfer to medical lists on persons who have ceased to perform such services;
- (c) that any provision in relation to medical lists made by or under any statutory provision is not to apply;
- (d) as to conditions to be attached to entries in medical lists;
- (e) conferring powers of disqualification on the Tribunal.”.

F45 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

Art. 23 rep. by 2004 NI 2

Right to choose dental practitioner

24. In the 1972 Order, after Article 15E, insert—

“Right to choose dental practitioner

15F.—(1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.

(2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.

(3) In this Article “primary dental services” means dental services which are—

- (a) provided, in accordance with Article 15B arrangements, as personal dental services; or
- (b) provided under Part VI as general dental services.”.

Art. 25 rep. by 2004 NI 2

Charges for dental treatment

26. In Schedule 15 to the 1972 Order, after paragraph 1 A insert—

“1AA.—(1) Regulations made with the approval of the Department of Finance and Personnel may provide for the making and recovery, in such manner as may be prescribed, of charges for dental treatment provided in accordance with Article 15B arrangements.

(2) “Dental treatment” means personal dental services other than those to which paragraph 1 (a)(k) applies.

(3) The regulations must secure that the amount charged for a particular treatment (or course of treatment) is the same as the amount that would be charged for that treatment (or course of treatment) if it were provided under Part VI.

(4) The regulations may—

- (a) provide for the amount or the maximum amount of any charge authorised by the regulations to be varied in prescribed circumstances; or
- (b) give power to direct that the charge is not to be payable.

(5) If, under a contract or arrangement, a patient receives—

- (a) services for which a charge is payable under paragraph 1(a)(k), and

(b) treatment for which a charge is payable under the regulations, the total charge for those services and that treatment is not to exceed such sum as may be prescribed.

(6) No charge is to be made under the regulations in respect of treatment provided for any person who, at the time of the making of the contract or arrangement under which the treatment is provided—

- (a) was under 18;
- (b) was under 19 and receiving qualifying full-time education;
- (c) was pregnant; or
- (d) had given birth within the previous twelve months.

(7) In sub-paragraph (6)(b) “qualifying full-time education” has the same meaning as in paragraph 2A(3).

(8) The regulations may provide, with respect to any exemption under sub-paragraph (6), that it is to be a condition of the exemption that—

- (a) a declaration of the prescribed kind is made in the prescribed form or manner; or
- (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.”.

Pharmaceutical services

Provision of additional pharmaceutical services

^{F46}27.

F46 Art. 27 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 184](#); S.R. 2022/102, art. 2(b)

Terms and conditions etc.

^{F47}28.

F47 Art. 28 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 184](#); S.R. 2022/102, art. 2(b)

Authorised provision of pharmaceutical services by medical practitioners

29. In Article 64 of the 1972 Order, after paragraph (1) insert—

“(1A) Regulations shall provide for the preparation and publication by a Health and Social Services Board of one or more lists of medical practitioners who are required or agree to provide drugs, medicines or listed appliances in the Board's area.

(1B) In paragraph (1A) “listed” has the same meaning as in Article 63.

(1C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.”

[^{F48}HSC contracts]

F48 Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(e\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

Provision of certain services under [^{F49}HSC contracts]

30. In the 1991 Order, after Article 8 ([^{F49}HSC contracts]) insert—

“Provision of certain services under [^{F49}HSC contracts]

8A.—(1) This Article applies to any arrangement under which a Health and Social Services Board or such other [^{F50}health care] body as may be prescribed arranges for the provision to it—

- (a) by a person on an ophthalmic list, or
- (b) by a person on a pharmaceutical list,

of goods or services that it reasonably requires for the purposes of functions which it is exercising under Part II of the principal Order.

(2) Any such arrangement is to be treated as an [^{F51}HSC contract] for the purposes of Article 8 (other than paragraphs (5) and (7)).

(3) In this Article—

“ophthalmic list” means a list published in accordance with regulations made under—

- (a) Article 62(2)(a) of the principal Order;
- (b) section 39(a) of the National Health Service Act 1977; or
- (c) section 26(2)(a) of the National Health Service (Scotland) Act 1978;

“pharmaceutical list” means a list published in accordance with regulations made under—

- (a) Article 63(2A)(a) of the principal Order;
- (b) section 42(2)(a) of the National Health Service Act 1977; or
- (c) section 27(2) of the National Health Service (Scotland) Act 1978.”.

F49 Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(e\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

F50 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(b\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

F51 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), ss. 32, 34\(3\), Sch. 6 para. 1\(1\)\(e\)](#) (with Sch. 6 para. 1(3)); S.R. 2009/114, [art. 2](#)

PART IV

SUPPLEMENTARY PROVISIONS

Regulations and directions

31.—(1) Any power under this Order to make regulations is exercisable by the Department.

(2) Any such power includes power to make such incidental, supplemental, consequential or transitional provision as appears to the Department to be appropriate.

(3) Regulations under this Order shall be subject to negative resolution.

^{F52}(4)

^{F53}(5)

F52 Art. 31(4) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 185**; S.R. 2022/102, art. 2(b)

F53 Art. 31(5) omitted (1.4.2022) by virtue of Health and Social Care Act (Northern Ireland) 2022 (c. 3), s. 8(1)(b), **Sch. 1 para. 185**; S.R. 2022/102, art. 2(b)

Amendments and repeals

Para. (1)—Amendments

Para. (2)—Repeals

(3) The Department may by order make such amendments or repeals of any statutory provision passed or made before the date on which this Order is made as appear to the Department necessary or expedient in consequence of any provision of this Order.

(4) An order under paragraph (3)—

(a) may contain such supplemental, incidental, consequential or transitional provisions and savings as appear to the Department to be necessary or expedient in consequence of any provision of this Order; and

(b) shall be subject to negative resolution.

Changes to legislation:

There are currently no known outstanding effects for the The Health Services (Primary Care) (Northern Ireland) Order 1997.