

SCHEDULE 1

CONTENT OF AGREEMENTS

PART 4

PERSONS WHO PERFORM SERVICES

Qualifications of performers

17.—(1) Subject to sub-paragraph (2), no medical practitioner shall perform medical services under the agreement unless the practitioner is—

- (a) included in the primary medical services performers list for the Health Board which is under a duty to provide or secure the provision of the service to be performed;
- (b) not suspended from that list or from the Medical Register; and
- (c) not subject to interim suspension under section 41A of the Medical Act 1983 (interim orders)(1).

(2) Sub-paragraph (1) shall not apply in the case of—

- (a) a medical practitioner employed in Scotland by a Health Board, in England and Wales by a NHS trust, a NHS foundation trust, or in Northern Ireland by a Health and Social Services trust who is providing services other than primary medical services at the practice premises;
- (b) a person who is provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) or 21 (provisional registration) of the Medical Act 1983(2) acting in the course of the person's employment in a resident medical capacity in an approved medical practice; or
- (c) a GP Registrar during the first two months of the GP Registrar's training period.

Qualifications of performers

18. No health care professional other than one to whom paragraph 17 applies shall perform clinical services under the agreement unless the health care professional is appropriately registered with the health care professional's relevant professional body and the health care professional's registration is not currently suspended.

Qualifications of performers

19. Where the registration of a health care professional or, in the case of a medical practitioner, the practitioner's inclusion in a list, is subject to conditions, the provider shall ensure compliance with those conditions insofar as they are relevant to the agreement.

Qualifications of performers

20. No health care professional shall perform any clinical services unless the health care professional has such clinical experience and training as are necessary to enable the health care professional properly to perform such services.

(1) 1983 c. 54. Section 41A was inserted by S.I.2000/1803.

(2) 1983 c. 54. Section 15 was amended by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), Schedule 2, Part 1, paragraph 61(4); section 15A was inserted by S.I. 2000/3041; section 21 was amended by the 1997 Act, Schedule 2, Part 1, paragraph 61(5) and by S.I. 1996/1591 and 2002/3135.

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Conditions for employment and engagement

21.—(1) Subject to sub-paragraphs (2) and (3), a provider shall not employ or engage a medical practitioner (other than one falling within paragraph 17(2)) unless—

- (a) that practitioner has provided the provider with the name and address of the Health Boards on whose primary medical services performers lists the practitioner appears; and
- (b) the provider has checked that the practitioner meets the requirements in paragraph 17.

(2) Where the employment or engagement of a medical practitioner is urgently needed and it is not possible for the provider to check the matters referred to in paragraph 17 in accordance with sub-paragraph (1)(b) before employing or engaging the practitioner, the practitioner may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

(3) Where the prospective employee is a GP Registrar, the requirements set out in sub-paragraph (1) shall apply with the modifications that—

- (a) the name and address provided under sub-paragraph (1) may be the name and address of the Health Boards on whose primary medical services performers lists the GP Registrar has applied for inclusion; and
- (b) confirmation that the GP Registrar’s name appears on those lists shall not be required until the end of the first two months of the GP Registrar’s training period.

Conditions for employment and engagement

22.—(1) A provider shall not employ or engage—

- (a) a health care professional (other than one to whom paragraph 17 applies) unless the provider has checked that the health care professional meets the requirements in paragraph 18;
- (b) a health care professional to perform clinical services unless the provider has taken reasonable steps to satisfy the provider that the health care professional meets the requirements in paragraph 20.

(2) Where the employment or engagement of a health care professional is urgently needed and it is not possible to check the matters referred to in paragraph 18 in accordance with sub paragraph (1) before employing or engaging the health care professional, the health care professional may be employed or engaged on a temporary basis for a single period of up to 7 days whilst such checks are undertaken.

(3) When considering a health care professional’s experience and training for the purposes of sub-paragraph (1)(b) the provider shall have regard in particular to—

- (a) any post-graduate or post-registration qualification held by the health care professional; and
- (b) any relevant training undertaken by the health care professional and any relevant clinical experience gained by the health care professional.

Conditions for employment and engagement

23.—(1) The provider shall not employ or engage a health care professional to perform medical services under the contract unless—

- (a) that person has provided two clinical references, relating to two recent posts (which may include any current post) as a health care professional which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and
- (b) the provider has checked and is satisfied with the references.

(2) Where the employment or engagement of a medical practitioner is urgently needed and it is not possible to obtain and check the references in accordance with sub-paragraph (1)(b) before employing or engaging the practitioner, the practitioner may be employed or engaged on a temporary basis for a single period of up to 14 days whilst the practitioner's references are checked and considered, and for an additional single period of a further 7 days if the provider believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the provider employs or engages the same person on more than one occasion within a period of three months, it may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

Conditions for employment and engagement

24.—(1) Before employing or engaging any person to assist the provider in the provision of services under the agreement, the provider shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which the person is to be employed or engaged.

(2) The duty imposed by sub-paragraph (1) is in addition to the duties imposed by paragraphs 21 to 23.

(3) When considering the competence and suitability of any person for the purpose of sub paragraph (1), the provider shall have regard, in particular, to—

- (a) that person's academic and vocational qualifications;
- (b) the person's education and training; and
- (c) the person's previous employment or work experience.

Training

25. The provider shall ensure that for any health care professional who is—

- (a) performing clinical services under the agreement; or
- (b) employed or engaged to assist in the performance of such services,

has in place arrangements for the purpose of maintaining and updating the health care professional's skills and knowledge in relation to the services which the health care professional is performing or assisting in performing.

Training

26. The provider shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Arrangements for GP registrars

27.—(1) The provider shall only employ a GP Registrar for the purpose of being trained by a GP Trainer with the agreement of the Scottish Ministers and subject to the conditions in sub paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that the provider shall not, by reason only of having employed or engaged a GP Registrar, reduce the total number of hours for which other medical practitioners perform primary medical services under the agreement or for which other staff assist them in the performance of those services.

(3) A provider which employs a GP Registrar shall—

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- (a) offer the GP Registrar terms of employment in accordance with the rates and subject to the conditions contained in any directions given by the Scottish Ministers to Health Boards under 17E(3A) of the Act concerning the grants, fees travelling and other allowances payable to GP Registrars; and
- (b) take into account any guidance issued by the Scottish Ministers in relation to the GP Registrar Scheme⁽³⁾.

Independent nurse prescribers and supplementary prescribers

28.—(1) Where—

- (a) a provider employs or engages a person who is an independent nurse prescriber or a supplementary prescriber whose functions will include prescribing;
- (b) a party to the agreement is an independent nurse prescriber or a supplementary prescriber whose functions will include prescribing;
- (c) a partner in a partnership that is a party to the agreement, is an independent nurse prescriber or a supplementary prescriber whose functions will include prescribing; or
- (d) the functions of a person who is an independent nurse prescriber or a supplementary prescriber whom it already employs or has already engaged are extended to include prescribing,

it shall notify the Health Board in writing within the period of seven days beginning with the date on which the provider employed or engaged the person, the person became a party to the agreement or a partner in a partnership that is a party to the agreement (unless, immediately before becoming such a party or a partner in a partnership that is such a party, the person fell under paragraph (1)(a)) or the person's functions were extended, as the case may be.

(2) Where—

- (a) the provider ceases to employ or engage a person who is an independent nurse prescriber or a supplementary prescriber whose functions included prescribing in the provider's practice;
- (b) the party to the agreement, who is an independent nurse prescriber or supplementary prescriber, whose functions include prescribing, ceases to be a party to the agreement;
- (c) the partner in a partnership that is a party to the agreement, who is an independent nurse prescriber or supplementary prescriber, whose function include prescribing, ceases to be a partner in that partnership;
- (d) the functions of a person who is an independent nurse prescriber or a supplementary prescriber whom the provider employs or engages in its practice are changed so that they no longer include prescribing in its practice; or
- (e) the provider becomes aware that a person who is an independent nurse prescriber or a supplementary prescriber whom the provider employs or engages has been removed or suspended from the relevant register,

it shall notify the Health Board in writing by the end of the second day after the day when the event occurred.

(3) The provider shall provide the following information when it notifies the Health Board in accordance with sub-paragraph (1)—

- (a) the person's full name;

(3) The current guidance is the GP Registrar Scheme Vocational Guide for General Medical practice – the UK Guide 2000 published by the Department of Health and available on their website at or by writing to the Department of Health, P.O. Box 777, London SE1 6XH.

- (b) the person's professional qualifications;
 - (c) the person's identifying number which appears in the relevant register;
 - (d) the date on which the person's entry in the relevant register was annotated to the effect that the person was qualified to order drugs, medicines and appliances for patients;
 - (e) the date—
 - (i) on which the person was employed or engaged, if applicable;
 - (ii) the person became a party to the agreement, if applicable;
 - (iii) the person became a partner in a partnership that is a party to the agreement, if applicable; or
 - (iv) on which one of the person's functions became to prescribe in its practice.
- (4) The provider shall provide the following information when it notifies the Health Board in accordance with sub-paragraph (2):—
- (a) the person's full name;
 - (b) the person's professional qualifications;
 - (c) the person's identifying number which appears in the relevant register;
 - (d) the date—
 - (i) the person ceased to be employed or engaged in its practice,
 - (ii) the person ceased to be a party to the agreement;
 - (iii) the person ceased to be a partner in a partnership that is a party to the agreement;
 - (iv) the person's functions changed so as no longer to include prescribing; or
 - (v) on which the person was removed or suspended from the relevant register.

Signing of documents

29.—(1) In addition to any other requirements relating to such documents whether in these regulations or otherwise, the provider shall ensure that the documents specified in sub-paragraph (2) include—

- (a) the clinical profession of the health care professional who signed the document; and
 - (b) the name of the provider on whose behalf it is signed.
- (2) The documents referred to in sub-paragraph (1) are—
- (a) certificates issued in accordance with regulation 19, unless regulations relating to particular certificates provide otherwise;
 - (b) prescription forms; and
 - (c) any other clinical documents.

Level of skill

30. The provider shall carry out its obligations under the agreement with reasonable skill and care.

Appraisal and assessment

31.—(1) The provider shall ensure that any medical practitioner performing services under the agreement—

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- (a) participates in the appraisal system provided by the Health Board unless the practitioner participates in an appropriate appraisal system provided by another health service body or is an armed forces GP; and
 - (b) co-operates with any assessment process which the Health Board operates in relation to poorly performing doctors, as set out in NHS circular PCA(M)(2001)17(4).
- (2) The Health Board shall provide an appraisal system for the purposes of sub-paragraph (1) (a) after consultation with the area medical committee and such other persons as appear to it to be appropriate.
- (3) In sub-paragraph (1)–
- “armed forces GP” means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the United Kingdom Armed Forces of Her Majesty; and
 - “health service body” does not include any provider who is to be treated as a health service body in accordance with regulation 8.

Sub-contracting of clinical matters

32.—(1) Subject to sub-paragraph (2) the provider shall not sub-contract any of its rights or duties under the agreement in relation to clinical matters unless–

- (a) in all cases, including those which fall within paragraph 4 of Schedule 4 (if applicable), it has taken reasonable steps to satisfy itself that–
 - (i) it is reasonable in all the circumstances; and
 - (ii) that person is qualified and competent to provide the service; and
 - (b) except in cases which fall within paragraph 4 of Schedule 4 (if applicable), it has notified the Health Board of its intention to sub-contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into force.
- (2) Sub-paragraph (1)(b) shall not apply to a contract for services with a health care professional for the provision by that person of clinical services.
- (3) The notification referred to in sub-paragraph (1)(b) shall include–
- (a) the name and address of the proposed sub-contractor;
 - (b) the duration of the proposed sub-contract;
 - (c) the services to be covered; and
 - (d) the address of any premises to be used for the provision of services.
- (4) Following receipt of a notice in accordance with sub-paragraph (1)(b), the Health Board may request such further information relating to the proposed sub-contract as appears to it to be reasonable and the provider shall supply such information promptly.
- (5) The provider shall not proceed with the sub-contract or, if it has already taken effect, shall take appropriate steps to terminate it, where, within 28 days of receipt of the notice referred to in sub-paragraph (1)(b), the Health Board has served notice of objection to the sub-contract on the grounds that–
- (a) the sub-contract would–
 - (i) put at serious risk the safety of the provider’s patients; or
 - (ii) put the Board at risk of material financial loss; or

(4) Copies of NHS Circular PCA(M)(2001)17 may be obtained in writing from the Scottish Executive Health Department, Primary Care Division, St. Andrew’s House, Regent Road, Edinburgh EH1 3DG.

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(b) the sub-contractor would be unable to meet the provider's obligations under the agreement.

(6) Where the Health Board objects to a proposed sub-contract in accordance with sub paragraph (5), it shall include with the notice of objection a statement in writing of the reasons for its objection.

(7) Sub-paragraphs (1) and (3) to (6) shall also apply in relation to any renewal or material variation of a sub-contract in relation to clinical matters.

(8) Where a Health Board does not object to a proposed sub-contract under sub-paragraph (5), the parties to the agreement shall be deemed to have consented to a variation of the agreement which has the effect of adding to the list of practice premises any premises whose address was notified to it under sub-paragraph (3)(d) and paragraph 59 shall not apply.

(9) A contract with a sub-contractor must prohibit the sub-contractor from sub-contracting the clinical services it has agreed with the provider to provide.