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National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART I

THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

Fund-holding practices

14 Recognition of fund-holding practices of doctors.

- (1) Any one or more medical practitioners who are providing general medical services in accordance with arrangements under section 29 of the principal Act may apply to the relevant Regional Health Authority for recognition as a fund-holding practice.
- (2) The relevant Regional Health Authority shall not grant recognition as a fund-holding practice unless the medical practitioner or, as the case may be, each of the medical practitioners concerned fulfils such conditions as may be prescribed.
- (3) Subject to subsection (4) below, in relation to a medical practitioner, any reference in this Part of this Act to the relevant Regional Health Authority is a reference to that Authority which, in relation to the practitioner's relevant Family Health Services Authority, is the relevant Regional Health Authority.
- (4) Where two or more medical practitioners wish to make an application under subsection (1) above and, apart from this subsection, the relevant Family Health Services Authority in respect of one or more of them would be different from that in respect of the other or others, then, for the purposes of this section and any other provisions relating to fund-holding practices, the relevant Family Health Services Authority for each of them shall be determined as if they were all practising in a single partnership.
- (5) In the application of this section to any medical practitioner whose relevant Family Health Services Authority has a locality in Wales, for any reference to the relevant

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Regional Health Authority there shall be substituted a reference to the Secretary of State.

- (6) Regulations may make provision with respect to—
- (a) the making of applications under subsection (1) above;
 - (b) the granting and refusal of recognition as a fund-holding practice;
 - (c) the conditions to be fulfilled for obtaining and continuing to be entitled to such recognition;
 - (d) appeals against any refusal of such recognition by a Regional Health Authority;
 - (e) withdrawing from, or becoming a member of, an existing recognised fund-holding practice;
 - (f) the continuity or otherwise of a recognised fund-holding practice in the event of the death or withdrawal of a member or the addition of a new member; and
 - (g) the operation of this section in a case where one or more of the medical practitioners wishing to make an application under subsection (1) above is also on the medical list of a health board;

and regulations making the provision referred to in paragraph (g) above may make such modifications of the preceding provisions of this section as the Secretary of State considers appropriate.

15 Payments to recognised fund-holding practices.

- (1) In respect of each financial year, every [^{F1}Family Health Services Authority] shall be liable to pay to the members of each recognised fund-holding practice in relation to which it is the relevant [^{F1}Family Health Services Authority] a sum determined [^{F2}by the relevant Regional Health Authority] in such manner and by reference to such factors as the Secretary of State may direct (in this section referred to as an “allotted sum”).
- (2) In respect of each financial year, [^{F3}every Family Health Services Authority which has a locality in Wales] shall be liable to pay to the members of each recognised fund-holding practice [^{F4}in respect of whom it is the relevant Family Health Services Authority] a sum determined [^{F5}by the Secretary of State] in such manner and by reference to such factors as [^{F6}he] may direct (in this section referred to as an “allotted sum”).
- (3) The liability to pay an allotted sum under subsection (1) or subsection (2) above may be discharged, in whole or in part, in either of the following ways—
 - (a) by making payments on account of the allotted sum at such times and in such manner as the Secretary of State may direct; and
 - (b) by discharging liabilities of the members of the practice to any other person (including, in particular, liabilities under NHS contracts);

and any reference in the following provisions of this Part of this Act to payment of or of a part of an allotted sum includes a reference to the discharge, in accordance with this subsection, of the whole or part of the liability to pay that sum.

- (4) In any case where—
 - (a) a [^{F7}Family Health Services Authority which has a locality in England] makes a payment of or of any part of an allotted sum to the members of a recognised fund-holding practice, and

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- (b) some of the individuals on the list of patients of any of the members of the practice reside in the region of [^{F8}a Regional Health Authority which is not the relevant Regional Health Authority in respect of the members of the practice], or in Wales, or in the area of a Health Board,
- the Authority making the payment shall be entitled to recover from that [^{F9}Regional Health Authority] or, as the case may be, from the Secretary of State or that Health Board an amount equal to such portion of the payment as may be determined in accordance with directions given by the Secretary of State.
- (5) In any case where—
- (a) [^{F10}a Family Health Services Authority which has a locality in Wales] makes a payment of or of any part of an allotted sum to the members of a recognised fund-holding practice, and
- (b) some of the individuals on the list of patients of any of the members of the practice reside in the region of a Regional Health Authority,
- [^{F11}the Authority making the payment] shall be entitled to recover from [^{F12}that Regional Health Authority] an amount equal to such portion of the payment as may be determined in accordance with directions given by the Secretary of State.
- (6) The members of a recognised fund-holding practice may apply an allotted sum only for purposes specified in regulations under subsection (7) below.
- (7) Regulations shall make provision with respect to the purposes for which allotted sums are to be or may be applied and may make provision generally with respect to the operation of recognised fund-holding practices in relation to allotted sums; and the regulations may, in particular,—
- (a) require the members of a practice to pay to the relevant Regional Health Authority out of allotted sums paid to them an amount determined in accordance with the regulations as the basic cost of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice;
- (b) provide that the goods and services, other than general medical services, which may be purchased by or on behalf of the members of a practice out of allotted sums for the individuals on the lists of patients of the members of the practice shall be such as may be specified in a list approved for the purpose under the regulations; and
- (c) impose a limit on the amount which may be spent out of an allotted sum on the provision of goods and services for any one individual, being a limit above which the cost of any goods and services for that individual in the financial year in question will fall to be met by the District Health Authority whose primary functions include the provision of goods and services (not necessarily the goods and services in question) to the individual concerned.
- (8) In the application of subsection (7) above to the members of a practice whose relevant Family Health Services Authority has a locality in Wales, for the reference in paragraph (a) of that subsection to the relevant Regional Health Authority there shall be substituted a reference to the Secretary of State.
- (9) In accordance with directions under section 17 of the principal Act, the relevant Family Health Services Authority shall monitor the expenditure of the members of a recognised fund-holding practice and may institute an audit and review in any case where the Authority consider it necessary to do so.

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Extent Information

- E1** S. 15 other than s. 15(4) does not extend to Scotland

Textual Amendments

- F1** Words in s. 15(1) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(3)(a)**; and continued (1.4.1993) by S.I. 1993/567, **art. 26(3)(a)**
- F2** Words in s. 15(1) inserted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(3)(a)**; and continued (1.4.1993) by S.I. 1993/567, **art. 26(3)(a)**
- F3** Words in s. 15(2) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(a)(i); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(a)(i)**
- F4** Words in s. 15(2) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(a)(ii); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(a)(ii)**
- F5** Words in s. 15(2) inserted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(a)(iii); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(a)(iii)**
- F6** Words in s. 15(2) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(a)(iv); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(a)(iv)**
- F7** Words in s. 15(4)(a) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(3)(b)(i)**; and continued (1.4.1993) by S.I. 1993/567, **art. 26(3)(b)(i)**
- F8** Words in s. 15(4)(b) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(3)(b)(ii)**; and continued (1.4.1993) by S.I. 1993/567, **art. 26(3)(b)(ii)**
- F9** Words in s. 15(4) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(3)(b)(iii)**; and continued (1.4.1993) by S.I. 1993/567, **art. 26(3)(b)(iii)**
- F10** Words in s. 15(5) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(b)(i); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(b)(i)**
- F11** Words in s. 15(5) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(b)(ii); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(b)(ii)**
- F12** Words in s. 15(5) substituted (1. 4. 1991) by S.I. 1991/582, **regs. 21(1)**, 22(3)(b)(iii); and continued (1.4.1993) by S.I. 1993/567, **art. 27(3)(b)(iii)**

Modifications etc. (not altering text)

- C1** S. 15(1): Functions transferred in England (with effect from 1. 4. 1991) by S.I. 1991/582, **regs. 21(1)(2)**; and continued (1.4.1993) as mentioned in S.I. 1993/567, **art. 26(1)**
- C2** S. 15(2): Functions transferred in Wales (with effect from 1. 4. 1991) by S.I. 1991/582, **regs. 22(1)(2)**; and continued (1.4.1993) as mentioned in S.I. 1993/567, **art. 27(1)**

Commencement Information

- I1** S. 15 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

16 Renunciation and removal of recognition as a fund-holding practice and withholding of funds.

- (1) Regulations may make provision as to the circumstances in which the members of a recognised fund-holding practice may renounce that status and such regulations may, in particular, make provision as to—
- (a) the notice to be given and the number of members of the practice by whom it is to be given;
 - (b) the procedure to be followed; and
 - (c) the consequences of such a renunciation.

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- (2) Regulations may make provision as to the circumstances in which and the grounds on which the relevant Regional Health Authority or, as the case may be, the Secretary of State may remove recognition from the members of a fund-holding practice,—
 - (a) with immediate effect; or
 - (b) with effect from the end of a particular financial year; or
 - (c) with effect from such other date as may be specified by the Regional Health Authority or, as the case may be, the Secretary of State.
- (3) Where provision is made as mentioned in subsection (2) above, regulations shall make provision with respect to—
 - (a) the procedure for the removal of recognition;
 - (b) appeals against the removal of recognition by a Regional Health Authority; and
 - (c) the consequences of the removal of recognition.
- (4) Without prejudice to the generality of the powers conferred by subsection (3) above, regulations making provision as mentioned in paragraph (c) of that subsection—
 - (a) may provide for the transfer of rights and obligations from the members of the fund-holding practice to one or more District Health Authorities determined in accordance with the regulations;
 - (b) may provide for the recovery of sums from the members of the practice; and
 - (c) may require the members of the practice to furnish such information as may reasonably be required by the Regional Health Authority or, as the case may be, the Secretary of State.
- (5) The bringing of an appeal against the removal of recognition by a Regional Health Authority shall not be regarded as preserving the recognised status of the members of the fund-holding practice and, accordingly, subject to the outcome of the appeal, the relevant Regional Health Authority shall not be required, after the removal takes effect, to make any (or, as the case may be, any further) payment to the members of the practice of any part of the allotted sum for the financial year in question or, as the case may be, to determine and pay any allotted sum for a future financial year.
- (6) Where any part of an allotted sum has been applied by the members of a recognised fund-holding practice (or any one or more of them) for purposes other than those specified in regulations under section 15(7) above, regulations may make provision for and in connection with the recovery by the relevant Regional Health Authority or, as the case may be, the Secretary of State of an amount equal to that part.
- (7) Where provision is made as mentioned in subsection (6) above, regulations shall make provision with respect to appeals against the recovery of any amount by a Regional Health Authority.

Commencement Information

12 S. 16 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), Sch. 3.

17 Transfer of functions relating to recognised fund-holding practices.

- (1) If the Secretary of State by regulations so provides, such of the functions of a Regional Health Authority or, in Wales, the Secretary of State under sections 14 to 16 above

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as are specified in, or determined in accordance with, the regulations shall become functions of a Family Health Services Authority with effect from such date as may be prescribed.

- (2) Regulations under this section shall make provision for determining the Family Health Services Authority which is to exercise any of the functions concerned in relation to the members of any existing recognised fund-holding practice and in relation to any medical practitioners wishing to apply for recognition.
- (3) Without prejudice to the generality of section 126(4) of the principal Act, regulations under this section may make such incidental and consequential modifications of the principal Act and of sections 14 to 16 above as appear to the Secretary of State to be necessary or expedient in consequence of the transfer of functions effected by the regulations.

Commencement Information

I3 S. 17 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

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