



# Health Service Commissioners (Amendment) Act 1996

## 1996 CHAPTER 5

### *Providers of services*

#### **1 Providers to be subject to investigation.**

In the <sup>M1</sup>Health Service Commissioners Act 1993 (the 1993 Act) after section 2 there shall be inserted—

*“ Persons subject to investigation*

#### **2A Health service providers subject to investigation.**

- (1) Persons are subject to investigation by the Health Service Commissioner for England if they are persons (whether individuals or bodies) undertaking to provide in England general medical services, general dental services, general ophthalmic services or pharmaceutical services under the <sup>M2</sup>National Health Service Act 1977.
- (2) Persons are subject to investigation by the Health Service Commissioner for Wales if they are persons (whether individuals or bodies) undertaking to provide in Wales general medical services, general dental services, general ophthalmic services or pharmaceutical services under the National Health Service Act 1977.
- (3) Persons are subject to investigation by the Health Service Commissioner for Scotland if they are persons (whether individuals or bodies) undertaking to provide in Scotland general medical services, general dental services, general ophthalmic services or pharmaceutical services under the <sup>M3</sup>National Health Service (Scotland) Act 1978.
- (4) In this Act—

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**Changes to legislation:** There are currently no known outstanding effects for the Health Service Commissioners (Amendment) Act 1996, Cross Heading: Providers of services. (See end of Document for details)

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- (a) references to a family health service provider are to any person mentioned in subsection (1), (2) or (3);
- (b) references to family health services are to any of the services so mentioned.

## **2B Independent providers subject to investigation.**

- (1) Persons are subject to investigation by the Health Service Commissioner for England if—
  - (a) they are persons (whether individuals or bodies) providing services in England under arrangements with health service bodies or family health service providers, and
  - (b) they are not themselves health service bodies or family health service providers.
- (2) Persons are subject to investigation by the Health Service Commissioner for Wales if—
  - (a) they are persons (whether individuals or bodies) providing services in Wales under arrangements with health service bodies or family health service providers, and
  - (b) they are not themselves health service bodies or family health service providers.
- (3) Persons are subject to investigation by the Health Service Commissioner for Scotland if—
  - (a) they are persons (whether individuals or bodies) providing services in Scotland under arrangements with health service bodies or family health service providers, and
  - (b) they are not themselves health service bodies or family health service providers.
- (4) The services provided under arrangements mentioned in subsection (1)(a), (2)(a) or (3)(a) may be services of any kind.
- (5) In this Act references to an independent provider are to any person providing services as mentioned in subsection (1), (2) or (3)."

### **Marginal Citations**

- M1** 1993 c. 46.
- M2** 1977 c. 49.
- M3** 1978 c. 29.

## **2 Commissioners' general remit as to providers.**

- (1) Section 3 of the 1993 Act (general remit of Commissioners) shall be amended as follows.
- (2) After subsection (1) there shall be inserted—
  - “(1A) Where a family health service provider has undertaken to provide any family health services and a complaint is duly made to a Commissioner by or on

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behalf of a person that he has sustained injustice or hardship in consequence of—

- (a) action taken by the family health service provider in connection with the services,
- (b) action taken in connection with the services by a person employed by the family health service provider in respect of the services,
- (c) action taken in connection with the services by a person acting on behalf of the family health service provider in respect of the services, or
- (d) action taken in connection with the services by a person to whom the family health service provider has delegated any functions in respect of the services,

the Commissioner may, subject to the provisions of this Act, investigate the alleged action.

(1B) Where the family health service provider mentioned in subsection (1A) is a member of a recognised fund-holding practice, references there to action taken by any person in connection with family health services include references to action taken by the person concerned in connection with any allotted sum paid to the members of the practice.

(1C) Where an independent provider has made an arrangement with a health service body or a family health service provider to provide a service (of whatever kind) and a complaint is duly made to a Commissioner by or on behalf of a person that he has sustained injustice or hardship in consequence of—

- (a) a failure in the service provided by the independent provider,
- (b) a failure of the independent provider to provide the service, or
- (c) maladministration connected with any other action taken in relation to the service,

the Commissioner may, subject to the provisions of this Act, investigate the alleged failure or other action.

(1D) Any failure or maladministration mentioned in subsection (1C) may arise from action of—

- (a) the independent provider,
- (b) a person employed by the provider,
- (c) a person acting on behalf of the provider, or
- (d) a person to whom the provider has delegated any functions.”

(3) After subsection (4) there shall be inserted—

“(5) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—

- (a) a family health service provider,
- (b) a person employed by a family health service provider,
- (c) a person acting on behalf of a family health service provider, or
- (d) a person to whom a family health service provider has delegated any functions.

(6) Nothing in this Act authorises or requires a Commissioner to question the merits of a decision taken without maladministration by—

- (a) an independent provider,

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- (b) a person employed by an independent provider,
- (c) a person acting on behalf of an independent provider, or
- (d) a person to whom an independent provider has delegated any functions.”

### **3 Providers: other provisions.**

Schedule 1 (which contains other provisions relating to family health service providers and independent providers, including provisions consequential on sections 1 and 2) shall have effect.

**Changes to legislation:**

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