



National Health Service (Primary Care) Act 1997

1997 CHAPTER 46

PART II

PRIMARY CARE

Personal medical or dental services

21 Provision of personal medical or dental services.

^{F1}(1)

(2) In the 1978 Act, after section 17B, insert—

“ Provision of personal medical or dental services

17C Personal medical or dental services.

- (1) A Health Board may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 17E, 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 section—
 - (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 services—

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Changes to legislation: There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Cross Heading: Personal medical or dental services. (See end of Document for details)

- (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 section is not to count as a person for whom arrangements must be made by the Health Board concerned under section 19;
 - (b) a patient for whom personal dental services are provided under an agreement made under this section is not to count as a person for whom arrangements must be made by the Health Board concerned under section 25.
- (4) This Act (and in particular section 2) has effect, in relation to personal medical services or personal dental services provided under an agreement made under this section, as if those services were provided as a result of the delegation by the Secretary of State (by directions given under section 2) of functions of his under this Part.
- (5) Regulations may provide—
- (a) for functions which are exercisable by a Health Board in relation to an agreement made under this section to be exercisable on behalf of the Board by a Health Authority; and
 - (b) for functions which are exercisable by a Health Authority in relation to an agreement made under section 28C of the ^{M1}National Health Service Act 1977 to be exercisable on behalf of the Authority by a Health Board.
- (6) For the purposes of this section—
- “Health Authority” has the same meaning as in the National Health Service Act 1977;
- “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 II; 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 II.

17D Persons with whom agreements may be made.

- (1) A Health Board may make an agreement under section 17C only with one or more of the following—
- (a) an NHS 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 section 17C arrangements or section 28C arrangements;
 - (c) in the case of an agreement under which personal dental services are provided—

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- (i) a qualifying dental practitioner;
- (ii) an individual who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;
- (d) an NHS employee, a section 17C employee or a section 28C employee;
- (e) a qualifying body.

(2) In this section—

“the 1977 Act” means the ^{M2}National Health Service Act 1977;

“NHS employee” means an individual who, in connection with the provision of services in the health service in Scotland or England and Wales, is employed by—

- (a) an NHS 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 kept under this Act or in a corresponding list kept under the 1977 Act; or
 - (ii) a medical practitioner who is providing personal medical services in accordance with section 17C arrangements or section 28C 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 section 25(2)(a) of this Act or section 36(1)(a) of the 1977 Act; or
 - (ii) a dental practitioner who is providing personal dental services in accordance with section 17C arrangements or section 28C arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraphs (a) to (d) of subsection (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 ^{M3}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 section 17E(2)(b) of this Act or section 28E(2)(b) of the 1977 Act;

“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under section 17E(2)(b) of this Act or section 28E(2)(b) of the 1977 Act;

“section 17C employee” means an individual who, in connection with the provision of services in accordance with section 17C arrangements, is employed by an individual providing those services;

“section 28C arrangements” means arrangements for the provision of services made under section 28C of the 1977 Act; and

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“section 28C employee” means an individual who, in connection with the provision of services in accordance with section 28C arrangements, is employed by an individual providing those services.”

- (3) The Secretary of State may not make an order under section 41(3) bringing this section into force unless he is satisfied, having regard in particular to reviews of pilot schemes which have been conducted under section 7, that it would be in the interests of any part of the health service to bring this section into force.

Textual Amendments

- F1** S. 21(1) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1 Sch. 3 Pt. 1**)

Commencement Information

- I1** S. 21 partly in force; s. 21 not in force at Royal Assent see s. 41; S. 21(2)(3) in force for certain purposes at 5.3.2001 (S.) by **S.I. 2001/58, art. 2**; S. 21 in force (W.) at 1.7.2002 by **S.I. 2002/1475, art. 2(1), Sch. Pt. 1**
- I2** S. 21(1)(3) in force at 1.3.2004 for specified purposes for E. by **S.I. 2004/287, art. 2(1)**
- I3** S. 21(1)(3) in force at 1.4.2004 for specified purposes for E. by **S.I. 2004/287, art. 2(2)(a)**
- I4** S. 21(1)(3) in force at 1.12.2005 for E. in so far as not already in force by **S.I. 2005/2926, art. 2(a)**
- I5** S. 21(1)(3) in force at 1.12.2005 for specified purposes for W. by **S.I. 2005/2926, art. 3(a)**
- I6** S. 21(1)(3) in force at 1.3.2007 for E.W., in so far as not already in force, immediately before the National Health Service Act 2006 comes into force by **S.I. 2006/1407, art. 1(1), Sch. 1 para. 3** (with **art. 4**)

Marginal Citations

- M1** 1977 c. 49.
- M2** 1977 c. 49.
- M3** 1984 c. 24.

22 Supplementary regulations.

^{F2}(1)

(2) In the 1978 Act, after section 17D, insert—

“17E Personal medical or dental services: regulations.

- (1) The Secretary of State may make regulations with respect to the provision of services in accordance with section 17C arrangements.
- (2) The regulations must—
- include provision for participants other than Health Boards to withdraw from section 17C arrangements if they wish to do so;
 - 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 section 17C arrangements.

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In 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 section 17C arrangements may be made only in prescribed circumstances;
 - (b) provide that section 17C 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 section 17C arrangements;
 - (d) require details of section 17C arrangements to be published;
 - (e) make provision with respect to the variation and termination of section 17C 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 section 17C 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 section 17C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 17A;
 - (i) provide for directions, as to payments, made under section 17A(8) (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in like manner as extract registered decrees arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland;
 - (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 17C(1) under which personal dental services are provided;
 - (k) authorise [Strategic Health Authorities and] Health Boards to make payments of financial assistance for prescribed categories of preparatory work undertaken—
 - (i) in connection with preparing proposals for section 17C arrangements; or
 - (ii) in preparation for the provision of services under proposed section 17C arrangements.
- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with section 17C 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 Secretary of State 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 subsection “fund-holding status” has such meaning as may be prescribed.
- (5) The Secretary of State must—

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- (a) consider whether section 17C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in Scotland;
- (b) if he 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 he thinks that it is necessary, include such provisions in the regulations.

^{F3}(6)

(7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—

- (a) requiring (except in prescribed circumstances) Health Boards to remove from their medical lists persons who are performing personal medical services in accordance with section 17C arrangements or corresponding services under section 28C of the ^{M4}National Health Service Act 1977;
- (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
- (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
- (d) as to conditions to be attached to entries in medical lists;
- (e) conferring powers of disqualification on the Tribunal constituted under section 29.

(8) The power to make provision under this section of the kind mentioned in subsection (3)(j) includes power—

- (a) to authorise or require the Dental Practice Board to perform on behalf of a Health Board functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Dental Practice Board by the Health Board in accordance with a power conferred by the regulations;
- (b) to provide that functions conferred by the regulations are only to be exercised by the Dental Practice Board in accordance with directions of the Secretary of State;
- (c) to require information for the purpose of performing any functions conferred or imposed on the Dental Practice Board under this section.

(9) In this Act “section 17C arrangements” means arrangements for the provision of services made under section 17C.”

Textual Amendments

F2 S. 22(1) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 4](#) (with [Sch. 2 Pt. 1 Sch. 3 Pt. 1](#))

F3 S. 22(2): s. 17E(6) to be inserted into the 1978 Act omitted (30.9.2005 as notified in the London Gazette dated 26.8.2005) by virtue of [The General and Specialist Medical Practice \(Education, Training and Qualifications\) Order 2003 \(S.I. 2003/1250\), art. 1\(2\)\(3\), Sch. 9 para. 6\(c\)\(ii\)](#)

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Commencement Information

- I7** S. 22 partly in force; s. 22 not in force at Royal Assent see s. 41; s. 22(2) in force for certain purposes at 5.3.2001 (S.) by [S.S.I. 2001/58](#), [art. 2](#)

Marginal Citations

- M4** 1977 c. 49.

23 Right to choose medical practitioner.

^{F4}(1)

^{F5}(2)

Textual Amendments

- F4** S. 23(1) repealed (E.W) (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 4](#) Note; [S.I. 2004/288](#), [art. 6\(2\)\(p\)](#) (with [art. 8](#)) (as amended by [S.I. 2004/866](#) and [S.I. 2005/2925](#)); [S.I. 2004/480](#), [art. 5\(2\)\(p\)](#) (with [arts. 6, 7](#)) (as amended by [S.I. 2004/1019](#) and [S.I. 2006/345](#))
- F5** S. 23(2) repealed (S.) (1.4.2004) by [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), s. 9(1), [sch. para. 2\(6\)](#); [S.S.I. 2004/58](#), [art. 2\(3\)](#)

24 Right to choose dental practitioner.

^{F6}(1)

(2) In the 1978 Act, after section 17F, insert—

“17G Right to choose dental practitioner.

- (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) The regulations may, in particular, provide that the right to choose a dental practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.
- (4) In this section “primary dental services” means dental services which are—
 - (a) provided, in accordance with section 17C arrangements, as personal dental services; or
 - (b) provided under Part II as general dental services.”

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Textual Amendments

- F6** S. 24(1) repealed (1.4.2006 for E., 1.4.2006 for W. for specified purposes) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4** Note; S.I. 2005/2925, art. 11; S.I. 2006/345, art. 7(2)(i)

25 Liabilities and obligations in relation to deputies.

^{F7}(1)

(2) In the 1978 Act, after section 24, insert—

“24A Liabilities and obligations in relation to deputies.

- (1) Regulations may make provision with respect to the liabilities and obligations of—
- (a) a Part II practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a Part I practitioner deputises, or is engaged to deputise, for him; or
 - (b) a Part II practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a Part I practitioner, in connection with that practitioner’s obligation to perform personal medical services in accordance with section 17C arrangements.
- (2) The regulations may, in particular—
- (a) modify any liabilities or obligations which would otherwise be applicable by virtue of this Part;
 - (b) apply (with or without modifications) any provision made by or under this Part (including any provision so made by virtue of section 17 of the ^{M5}Health and Medicines Act 1988).

(3) In subsection (1)—

“Part I practitioner” means a medical practitioner who performs personal medical services in accordance with section 17C arrangements; and

“Part II practitioner” means a medical practitioner who provides general medical services.”

Textual Amendments

- F7** S. 25(1) repealed (E.W) (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4** Note; S.I. 2004/288, art. 6(2)(p) (with art. 8) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345)

Commencement Information

- I8** S. 25 partly in force; s. 25 not in force at Royal Assent see s. 41; s. 25(2) in force for certain puposes at 5.3.2001 (S.) by [S.S.I. 2001/58](#), **art. 2**

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Marginal Citations

M5 1988 c. 49.

PROSPECTIVE

26 Charges for dental treatment.

^{F8}(1)

(2) In the 1978 Act, after section 70, insert—

“70A Charges for dental treatment under section 17C.

- (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 section 17C arrangements.
- (2) “Dental treatment” means personal dental services other than those to which section 70(1A) 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 II.
- (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 section 70, 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 subsection (6)(b) “qualifying full-time education” has the same meaning as in Schedule 11.
- (8) The regulations may provide, with respect to any exemption under subsection (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

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

Textual Amendments

F8 S. 26(1) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1 Sch. 3 Pt. 1)

Status:

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