



# 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**

(1) In the 1977 Act, after section 28B, insert—

*“Provision of personal medical or dental services*

#### **28C Personal medical or dental services**

- (1) A Health Authority may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 28E, under which—
- (a) personal medical services are provided (otherwise than by the Authority); or
  - (b) personal dental services are provided (otherwise than by the Authority).
- (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—
    - (i) which are not personal medical services or personal dental services; but

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- (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 Authority concerned under section 29;
  - (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 Authority concerned under section 35.
- (4) This Act (and in particular section 17) 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 13) of functions of his under this Part.
- (5) The functions of a Health Authority in relation to an agreement made under this section are primary functions of the Authority for the purposes of the National Health Service and Community Care Act 1990.
- (6) Regulations may provide—
- (a) for functions which are exercisable by a Health Authority in relation to an agreement made under this section to be exercisable on behalf of the Authority by a Health Board; and
  - (b) for functions which are exercisable by a Health Board in relation to an agreement made under section 17C of the National Health Service (Scotland) Act 1978 to be exercisable on behalf of the Board by a Health Authority.
- (7) For the purposes of this section—
- “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.

### **28D Persons with whom agreements may be made**

- (1) A Health Authority may make an agreement under section 28C 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 28C arrangements or section 17C 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 28C arrangements or section 17C arrangements;
- (d) an NHS employee, a section 28C employee or a section 17C employee;
- (e) a qualifying body.

(2) In this section—

“the 1978 Act” means the National Health Service (Scotland) Act 1978;

“NHS employee” means an individual who, in connection with the provision of services in the health service in England and Wales or Scotland, 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 1978 Act; or
  - (ii) a medical practitioner who is providing personal medical services in accordance with section 28C arrangements or section 17C 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 36(1)(a) of this Act or section 25(2)(a) of the 1978 Act; or
  - (ii) a dental practitioner who is providing personal dental services in accordance with section 28C arrangements or section 17C 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 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 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under section 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

“section 17C arrangements” means arrangements for the provision of services made under section 17C of the 1978 Act;

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“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; and

“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.”

(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—
    - (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

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- (b) for functions which are exercisable by a Health Authority in relation to an agreement made under section 28C of the 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—
  - (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 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;

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(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 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

“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.

## 22 Supplementary regulations

(1) In the 1977 Act, after section 28D, insert—

### “28E 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 28C arrangements.

(2) The regulations must—

(a) include provision for participants other than Health Authorities to withdraw from section 28C arrangements if they wish to do so;

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- (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 section 28C arrangements.

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 28C arrangements may be made only in prescribed circumstances;
  - (b) provide that section 28C 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 28C arrangements;
  - (d) require details of section 28C arrangements to be published;
  - (e) make provision with respect to the variation and termination of section 28C 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 28C 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 28C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 4 of the National Health Service and Community Care Act 1990;
  - (i) provide for directions, as to payments, made under section 4(7) of the Act of 1990 (as it has effect as a result of regulations made by virtue of 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) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 28C(1) under which personal dental services are provided;
  - (k) authorise Health Authorities to make payments of financial assistance for prescribed categories of preparatory work undertaken—
    - (i) in connection with preparing proposals for section 28C arrangements; or
    - (ii) in preparation for the provision of services under proposed section 28C arrangements.
- (4) The regulations must include provision for a medical practitioner who—
  - (a) has provided or performed personal medical services in accordance with section 28C 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—
- (a) consider whether section 28C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in England or in Wales;
  - (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.
- (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 32.
- (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) Health Authorities to remove from their medical lists persons who are performing personal medical services in accordance with section 28C arrangements or corresponding services under section 17C of the National Health Service (Scotland) Act 1978;
  - (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 46.
- (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 Authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the Health Authority 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 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 Board under this section.”
- (2) In the 1978 Act, after section 17D, insert—



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### **“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—
  - (a) include provision for participants other than Health Boards to withdraw from section 17C 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 section 17C arrangements.

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 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

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(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—

(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.

(6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 22.

(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 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;

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- (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.”

## **23 Right to choose medical practitioner**

(1) In the 1977 Act, after section 28E, insert—

### **“28F Right to choose medical practitioner**

- (1) Provision shall be made in regulations for conferring a right on any person to choose the medical practitioner from whom he is to receive primary medical services, subject to—
  - (a) the consent of the practitioner concerned; and
  - (b) any limit on the number of patients to be accepted by any practitioner.
- (2) In particular, the regulations—
  - (a) shall prescribe the procedure for choosing a practitioner;
  - (b) may prescribe a limit on the number of patients to be accepted by a medical practitioner who undertakes to provide general medical services under Part II; and
  - (c) shall provide for the distribution among medical practitioners of persons who have indicated a wish to obtain primary medical services but—
    - (i) have been refused by the medical practitioner of their choice;  
or
    - (ii) have not chosen a medical practitioner.
- (3) The Secretary of State may give directions imposing a limit on the number of patients to be accepted by a medical practitioner who performs personal medical services in accordance with section 28C arrangements.
- (4) Any such directions may make different provision for different cases or descriptions of case.
- (5) Regulations under this section may also provide that the right to choose a medical 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.
- (6) In this section “primary medical services” means medical services which are—
  - (a) provided, in accordance with section 28C arrangements, as personal medical services; or
  - (b) provided under Part II as general medical services.”

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

**“17F Right to choose medical practitioner**

- (1) Provision shall be made in regulations for conferring a right on any person to choose the medical practitioner from whom he is to receive primary medical services, subject to—
  - (a) the consent of the practitioner concerned; and
  - (b) any limit on the number of patients to be accepted by any practitioner.
- (2) In particular, the regulations—
  - (a) shall prescribe the procedure for choosing a practitioner;
  - (b) may prescribe a limit on the number of patients to be accepted by a medical practitioner who undertakes to provide general medical services under Part II; and
  - (c) shall provide for the distribution among medical practitioners of persons who have indicated a wish to obtain primary medical services but—
    - (i) have been refused by the medical practitioner of their choice;  
or
    - (ii) have not chosen a medical practitioner.
- (3) The Secretary of State may give directions imposing a limit on the number of patients to be accepted by a medical practitioner who performs personal medical services in accordance with section 17C arrangements.
- (4) Any such directions may make different provision for different cases or descriptions of case.
- (5) Regulations under this section may also provide that the right to choose a medical 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.
- (6) In this section “primary medical services” means medical services which are—
  - (a) provided, in accordance with section 17C arrangements, as personal medical services; or
  - (b) provided under Part II as general medical services.”

**24 Right to choose dental practitioner**

- (1) In the 1977 Act, after section 28F, insert—

**“28G 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 28C arrangements, as personal dental services; or
    - (b) provided under Part II as general dental services.”
- (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.”

**25 Liabilities and obligations in relation to deputies**

- (1) In the 1977 Act, after section 34, insert—

**“34A 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 28C arrangements.
- (2) The regulations may, in particular—
  - (a) modify any liabilities or obligations which would otherwise be applicable by virtue of this Part;

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- (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 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 28C arrangements; and

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

- (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 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.”

**26 Charges for dental treatment**

- (1) In the 1977 Act, after section 78, insert—

**“78A Charges for dental treatment under section 28C**

- (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 28C arrangements.

- (2) “Dental treatment” means personal dental services other than those to which section 78(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 78, 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 12.
- (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
  - (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.”

(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

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

*Pharmaceutical services*

**27 Provision of additional pharmaceutical services**

- (1) In the 1977 Act, after section 41, insert—

**“41A Arrangements for providing additional pharmaceutical services**

- (1) The Secretary of State may—
  - (a) give directions to a Health Authority requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Authority authorise them to arrange for such provision if they wish to do so.
- (2) Directions under this section may make different provision in relation to different services specified in the directions.
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he thinks appropriate.
- (4) In this section—
  - “additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within section 41) as may be specified in the directions; and



“Drug Tariff” means the Drug Tariff published under regulation 18 of the National Health Service (Pharmaceutical Services) Regulations 1992 or under any corresponding provision replacing, or otherwise derived from, that regulation.”

(2) In the 1978 Act, after section 27, insert—

**“27A Arrangements for providing additional pharmaceutical services**

- (1) The Secretary of State may—
  - (a) give directions to a Health Board requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Board authorise them to arrange for such provision if they wish to do so.
- (2) Directions under this section may make different provision in relation to different services specified in the directions.
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he thinks appropriate.
- (4) In this section—

“additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within section 27) as may be specified in the directions; and

“Drug Tariff” means the Drug Tariff published under regulation 9 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 or under any corresponding provision replacing, or otherwise derived from, that regulation.”

**28 Terms and conditions etc**

(1) In the 1977 Act, after section 41A, insert—

**“41B Terms and conditions etc**

- (1) Directions under section 41A may require the Health Authority to whom they apply, when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.
- (3) Different arrangements may be made with respect to—
  - (a) the provision of the same service by the same person but in different circumstances; or
  - (b) the provision of the same service by different persons.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A Health Authority must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Health Authority must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) In this section, “pharmaceutical list” means, subject to any provision of the directions in question, a list—
  - (a) published by the Health Authority concerned, or by any other Health Authority, in accordance with regulations made under section 42(2) (a) of this Act; or
  - (b) published by any body in accordance with regulations made under section 27(2)(a) of the National Health Service (Scotland) Act 1978 or Article 63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.”

(2) In the 1978 Act, after section 27A, insert—

**“27B Terms and conditions etc**

- (1) Directions under section 27A may require the Health Board to whom they apply, when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.
- (3) Different arrangements may be made with respect to—
  - (a) the provision of the same service by the same person but in different circumstances; or
  - (b) the provision of the same service by different persons.
- (4) A Health Board must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Health Board must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) In this section, “pharmaceutical list” means, subject to any provision of the directions in question, a list—
  - (a) published by the Health Board concerned, or by any other Health Board, in accordance with regulations made under section 27(2) of this Act; or
  - (b) published by any body in accordance with regulations made under section 42(2) of the National Health Service Act 1977 or Article

63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.”

## **29 Authorised provision of pharmaceutical services by medical practitioners**

(1) In section 43 of the 1977 Act, after subsection (2), insert—

“(2A) Regulations shall provide for the preparation and publication by a Health Authority of one or more lists of medical practitioners who undertake to provide drugs, medicines or listed appliances in the Authority’s area.

(2B) In subsection (2A) “listed” has the same meaning as in section 41.

(2C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.”

(2) In section 28 of the 1978 Act, after subsection (2), insert—

“(2A) Regulations shall provide for the preparation and publication by a Health Board of one or more lists of medical practitioners who undertake to supply drugs and appliances in the Board’s area.

(2B) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.”

### *Ophthalmic services*

## **30 Duty of registered opticians to refer certain persons to registered medical practitioners**

(1) Section 31 of the Opticians Act 1989 (matters with respect to which the General Optical Council may make rules) is amended as follows.

(2) In subsection (5) (power to make rules requiring registered optician to refer persons to registered medical practitioners except in certain circumstances), for the words from “except” to “take the prescribed steps” substitute “except—

- (a) in an emergency,
- (b) where that person is consulting him for the purpose of being given treatment in accordance with rules under subsection (1)(d) above, or
- (c) in such other cases as may be prescribed,

take the prescribed steps”.

(3) After subsection (5), insert—

“(5A) Rules made by virtue of subsection (5)(c) may impose conditions which must be satisfied if the exception for which those rules provide is to apply.”

### *NHS contracts*

## **31 Provision of certain services under NHS contracts**

(1) In the National Health Service and Community Care Act 1990, after section 4 (NHS contracts), insert—

**“4A Provision of certain services under NHS contracts**

- (1) This section applies to any arrangement under which a Health Authority or such other health service body as may be prescribed arrange for the provision to them—
- (a) by a person on an ophthalmic list, or
  - (b) by a person on a pharmaceutical list,
- of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of the principal Act.
- (2) Any such arrangement is to be treated as an NHS contract for the purposes of section 4 (other than subsections (4) and (6)).
- (3) In this section—
- “health service body” means a body which is a health service body for the purposes of section 4;
- “ophthalmic list” means a list published in accordance with regulations made under—
- (a) section 39(a) of the principal Act;
  - (b) section 26(2)(a) of the National Health Service (Scotland) Act 1978; or
  - (c) Article 62(2)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972; and
- “pharmaceutical list” means a list published in accordance with regulations made under—
- (a) section 42(2)(a) of the principal Act;
  - (b) section 27(2) of the National Health Service (Scotland) Act 1978; or
  - (c) Article 63(2A)(a) of the 1972 Order.”

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

*“NHS contracts***17AA Provision of certain services under NHS contracts**

- (1) This section applies to any arrangement under which a Health Board or such other health service body as may be prescribed arrange for the provision to them—
- (a) by a person on an ophthalmic list, or
  - (b) by a person on a pharmaceutical list,
- of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of this Act.
- (2) Any such arrangement is to be treated as an NHS contract for the purposes of section 17A (other than subsections (5) and (7)).
- (3) In this section—
- “health service body” means a person or body which is a health service body for the purposes of section 17A;

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

- (a) section 26(2)(a) of this Act;
- (b) section 39(a) of the National Health Service Act 1977; or
- (c) Article 62(2)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972; and

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

- (a) section 27(2) of this Act;
- (b) section 42(2)(a) of the National Health Service Act 1977; or
- (c) Article 63(2A)(a) of the 1972 Order.”

#### *Medical lists and vacancies*

### **32 Medical lists and vacancies: England and Wales**

(1) In the 1977 Act, after section 29, insert—

#### **“29A Medical lists**

- (1) A Health Authority may not, under section 29, arrange with a medical practitioner for him to provide general medical services for persons in the Authority’s area unless his name is included in the Authority’s medical list.
- (2) A medical practitioner is entitled to be included in a Health Authority’s medical list only if—
  - (a) he is eligible for inclusion in the list; and
  - (b) he is nominated or approved, in accordance with regulations under section 29B, for appointment to fill a vacancy which relates (whether wholly or in part) to the area of the Authority.
- (3) A medical practitioner is eligible for inclusion in a medical list if—
  - (a) he has not attained the age specified in regulations under section 8 of the Health and Medicines Act 1988 (retirement age for practitioners); and
  - (b) he is not disqualified, or treated as disqualified, from inclusion in the list by virtue of a direction of the Tribunal constituted under section 46 or any corresponding tribunal in Scotland or Northern Ireland.
- (4) Regulations may make provision in relation to delaying a person’s inclusion in a medical list in prescribed circumstances.
- (5) This section is subject to section 29(6) (temporary provision of general medical services) and any provision of, or made under, an enactment relating to the right of a medical practitioner to transfer to a medical list.
- (6) In this Act “medical list”, in relation to a Health Authority, means the list of medical practitioners undertaking to provide general medical services for persons in their area, kept by the Authority under regulations made under section 29(2)(a).

### **29B Vacancies for medical practitioners**

- (1) Regulations may make provision in relation to the filling of vacancies for medical practitioners to provide general medical services.
- (2) The regulations may, in particular, include provision for—
  - (a) references by a Health Authority to the Medical Practices Committee as to whether there is, or will be, a vacancy for a medical practitioner in a locality;
  - (b) the determination of such references by the Medical Practices Committee;
  - (c) the determination by the Medical Practices Committee of conditions of practice to be imposed on any medical practitioner who fills a particular vacancy;
  - (d) the determination by a Health Authority of whether a vacancy is to be filled by a member of a partnership or by a sole practitioner;
  - (e) the nomination by a Health Authority of a medical practitioner for appointment to fill a vacancy as a sole practitioner;
  - (f) the approval by a Health Authority of a medical practitioner for appointment to fill a vacancy as a member of a partnership.
- (3) The regulations may also make provision in relation to—
  - (a) criteria to be applied in making decisions under the regulations,
  - (b) the variation or revocation of such decisions (including appeals to the Secretary of State on points of law), or
  - (c) vacancies relating to the area of one Health Authority which also relate to the area of another Health Authority or a Health Board,and may contain such transitional provisions as the Secretary of State considers appropriate.
- (4) Regulations which make provision about vacancies which relate partly to the area of a Health Board may, in particular, provide that section 29A(2)(b) is to have effect in prescribed circumstances as if the reference to regulations under this section were a reference to regulations under section 19B of the National Health Service (Scotland) Act 1978.
- (5) In this section—

“conditions of practice” means conditions—

  - (a) specifying, by reference to one or more prescribed conditions relating to hours or the sharing of work, the provision of general medical services for which a person is entitled to be remunerated; and
  - (b) specifying the locality in which a person is entitled to provide general medical services;

“Health Board” has the same meaning as in the National Health Service (Scotland) Act 1978;

“locality”, in relation to a Health Authority, means the Authority’s area or a particular part of their area; and

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*Status: This is the original version (as it was originally enacted).*

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“sole practitioner” means a medical practitioner providing general medical services otherwise than in partnership with one or more other medical practitioners.

- (6) This section does not affect the power to make regulations under section 29.”
- (2) Omit section 30 (applications to provide general medical services).
- (3) In section 31 (requirement of suitable experience) for subsection (1) substitute—
- “(1) Regulations under section 29B must secure that a medical practitioner is not nominated or approved by a Health Authority for appointment to fill a vacancy unless he is suitably experienced.”

### **33 Medical lists and vacancies: Scotland**

- (1) In the 1978 Act, after section 19, insert—

#### **“19A Medical lists**

- (1) A Health Board may not, under section 19, arrange with a medical practitioner for him to provide general medical services for persons in the Board’s area unless his name is included in the Board’s medical list.
- (2) A medical practitioner is entitled to be included in a Health Board’s medical list only if—
- (a) he is eligible for inclusion in the list; and
  - (b) he is nominated or approved, in accordance with regulations under section 19B, for appointment to fill a vacancy which relates (whether wholly or in part) to the area of the Board.
- (3) A medical practitioner is eligible for inclusion in a medical list if—
- (a) he has not attained the age specified in regulations under section 8 of the Health and Medicines Act 1988 (retirement age for practitioners); and
  - (b) he is not disqualified, or treated as disqualified, from inclusion in the list by virtue of a direction of the Tribunal constituted under section 29 or any corresponding tribunal in England and Wales or Northern Ireland.
- (4) Regulations may make provision in relation to delaying a person’s inclusion in a medical list in prescribed circumstances.
- (5) This section is subject to section 19(5) (temporary provision of general medical services) and any provision of, or made under, an enactment relating to the right of a medical practitioner to transfer to a medical list.
- (6) In this Act “medical list”, in relation to a Health Board, means the list of medical practitioners undertaking to provide general medical services for persons in their area, kept by the Board under regulations made under section 19(2)(a).

### **19B Vacancies for medical practitioners**

- (1) Regulations may make provision in relation to the filling of vacancies for medical practitioners to provide general medical services.
- (2) The regulations may, in particular, include provision for—
  - (a) references by a Health Board to the Medical Practices Committee as to whether there is, or will be, a vacancy for a medical practitioner in a locality;
  - (b) the determination of such references by the Medical Practices Committee;
  - (c) the determination by the Medical Practices Committee of conditions of practice to be imposed on any medical practitioner who fills a particular vacancy;
  - (d) the determination by a Health Board of whether a vacancy is to be filled by a member of a partnership or by a sole practitioner;
  - (e) the nomination by a Health Board of a medical practitioner for appointment to fill a vacancy as a sole practitioner;
  - (f) the approval by a Health Board of a medical practitioner for appointment to fill a vacancy as a member of a partnership.
- (3) The regulations may also make provision in relation to—
  - (a) criteria to be applied in making decisions under the regulations,
  - (b) the variation or revocation of such decisions (including appeals to the Secretary of State on points of law), or
  - (c) vacancies relating to the area of one Health Board which also relate to the area of another Health Board or a Health Authority,and may contain such transitional provisions as the Secretary of State considers appropriate.
- (4) Regulations which make provision about vacancies which relate partly to the area of a Health Authority may, in particular, provide that section 19A(2)(b) is to have effect in prescribed circumstances as if the reference to regulations under this section were a reference to regulations under section 29B of the National Health Service Act 1977.
- (5) In this section—

“conditions of practice” means conditions—

  - (a) specifying, by reference to one or more prescribed conditions relating to hours or the sharing of work, the provision of general medical services for which a person is entitled to be remunerated; and
  - (b) specifying the locality in which a person is entitled to provide general medical services;

“Health Authority” has the same meaning as in the National Health Service Act 1977;

“locality”, in relation to a Health Board, means the Board’s area or a particular part of their area; and



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*Status: This is the original version (as it was originally enacted).*

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“sole practitioner” means a medical practitioner providing general medical services otherwise than in partnership with one or more other medical practitioners.

- (6) This section does not affect the power to make regulations under section 19.”
- (2) Omit section 20 (applications to provide general medical services).
- (3) In section 21 (requirement of suitable experience) for subsection (1) substitute—
- “(1) Regulations under section 19B must secure that a medical practitioner is not nominated or approved by a Health Board for appointment to fill a vacancy unless he is suitably experienced.”

### *Medical practices*

## **34 Sale of medical practices**

- (1) In the 1977 Act, for section 54 (sale of medical practices), substitute—

### **“54 Sale of medical practices**

- (1) It is unlawful to sell the goodwill of the medical practice of a person who has at any time—
- (a) provided general medical services under arrangements made with any Council, Committee or Authority under the National Health Service Act 1946, the National Health Service Reorganisation Act 1973 or this Act, or
  - (b) provided or performed personal medical services in accordance with section 28C arrangements,
- unless that person no longer provides or performs such services and has never carried on the practice in a relevant area.
- (2) In this section—
- “goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice;
  - “medical practice” includes any part of a medical practice; and
  - “relevant area”, in relation to any Council, Committee or Authority by arrangement with whom a person has at any time—
    - (a) provided general medical services, or
    - (b) provided or performed personal medical services in accordance with section 28C arrangements,means the area, district or locality of that Council, Committee or Authority (at that time).
- (3) Schedule 10 supplements the provisions of this section.”
- (2) In the 1978 Act, for section 35 (sale of medical practices), substitute—

**“35 Sale of medical practices**

- (1) It is unlawful to sell the goodwill of the medical practice of a person who has at any time—
- (a) provided general medical services under arrangements made with any Executive Council or Health Board under the National Health Service (Scotland) Act 1947, the National Health Service (Scotland) Act 1972 or this Act, or
  - (b) provided or performed personal medical services in accordance with section 17C arrangements,
- unless that person no longer provides or performs such services and has never carried on the practice in a relevant area.
- (2) In this section—
- “goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice;
  - “medical practice” includes any part of a medical practice; and
  - “relevant area”, in relation to any Executive Council or Health Board by arrangement with whom a person has at any time—
    - (a) provided general medical services, or
    - (b) provided or performed personal medical services in accordance with section 17C arrangements,
 means the area of that Council or Board (at that time).
- (3) Schedule 9 supplements the provisions of this section.”

**35 Employment of pre-registration house officers in medical practices**

- (1) The Medical Act 1983 is amended as follows.
- (2) In subsection (2) of section 10 (experience required for full registration as a medical practitioner), for “approved hospitals or approved institutions,” substitute “—
- (a) approved hospitals,
  - (b) approved institutions, or
  - (c) approved medical practices,”.
- (3) In subsection (3) of section 11 (construction of section 10, etc), after the first “where” insert “—
- (a) in the case of an approved hospital or an approved institution,” and at the end insert
- “; or
- (b) in the case of an approved medical practice, the person employed satisfies such conditions as to residence as may be prescribed”.
- (4) In subsection (4) of section 11—
- (a) insert in the appropriate place—
- ““medical practice” means a prescribed description of practice in which one or more medical practitioners—

- (a) provide general medical services under Part II of the National Health Service Act 1977, Part II of the National Health Service (Scotland) Act 1978 or Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972; or
    - (b) perform personal medical services in accordance with arrangements made under section 28C of the 1977 Act, section 17C of the 1978 Act or the corresponding provisions of the law in force in Northern Ireland;”;
  - (b) in the definition of “prescribed”, after “means” insert “—
    - (a) in subsection (3)(b) and in the definition of “medical practice”, prescribed by regulations made by the Secretary of State; and
    - (b) in the other provisions of this Part.”.
- (5) After subsection (4) of section 11 insert—
- “(4A) The Education Committee may by regulations provide that the period of employment in a medical practice which may be reckoned towards the completion of any of the periods mentioned in section 10(3)(a) above shall not exceed such period as may be specified in the regulations.”
- (6) In subsection (5) of section 11, after “under subsection (2) of section 10 above” insert “or under subsection (4A) of this section”.
- (7) After subsection (6) of section 11 insert—
- “(7) Regulations made by the Secretary of State under this section must be made by statutory instrument; and such a statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.”