



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 4

#### MEDICAL SERVICES

##### *Duty of Local Health Boards in relation to primary medical services*

#### **41 Primary medical services**

- (1) Each Local Health Board must, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary medical services within its area, or secure their provision within its area.
- (2) A Local Health Board may (in addition to any other power conferred on it)—
  - (a) provide primary medical services itself (whether within or outside its area),
  - (b) make such arrangements for their provision (whether within or outside its area) as it considers appropriate, and may in particular make contractual arrangements with any person.
- (3) Each Local Health Board must publish information about such matters as may be prescribed in relation to the primary medical services provided under this Act.
- (4) Each Local Health Board must co-operate with each other Local Health Board and each Primary Care Trust in the discharge of their respective functions relating to the provision of primary medical services under this Act and the National Health Service Act 2006 (c. 41).
- (5) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary medical services for the purposes of this Act.
- (6) Regulations under this section may in particular describe services by reference to the manner or circumstances in which they are provided.

### *General medical services contracts*

#### **42 General medical services contracts: introductory**

- (1) A Local Health Board may enter into a contract under which primary medical services are provided in accordance with the following provisions of this Part.
- (2) A contract under this section is called in this Act a “general medical services contract”.
- (3) A general medical services contract may make such provision as may be agreed between the Local Health Board and the contractor or contractors in relation to—
  - (a) the services to be provided under the contract,
  - (b) remuneration under the contract, and
  - (c) any other matters.
- (4) The services to be provided under a general medical services contract may include—
  - (a) services which are not primary medical services,
  - (b) services to be provided outside the area of the Local Health Board.
- (5) In this Part, “contractor”, in relation to a general medical services contract, means any person entering into the contract with the Local Health Board.

#### **43 Requirement to provide certain primary medical services**

- (1) A general medical services contract must require the contractor or contractors to provide, for his or their patients, primary medical services of such descriptions as may be prescribed.
- (2) Regulations under subsection (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

#### **44 Persons eligible to enter into GMS contracts**

- (1) A Local Health Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with—
  - (a) a medical practitioner,
  - (b) two or more individuals practising in partnership where the conditions in subsection (2) are satisfied, or
  - (c) a company limited by shares where the conditions in subsection (3) are satisfied.
- (2) The conditions referred to in subsection (1)(b) are that—
  - (a) at least one partner is a medical practitioner, and
  - (b) any partner who is not a medical practitioner is either—
    - (i) an NHS employee,
    - (ii) a section 50 employee, section 64 employee, section 92 employee, section 107 employee, section 17C employee or Article 15B employee,
    - (iii) a health care professional who is engaged in the provision of services under this Act or the National Health Service Act 2006 (c. 41), or
    - (iv) an individual falling within section 51(1)(d).

- (3) The conditions referred to in subsection (1)(c) are that—
  - (a) at least one share in the company is legally and beneficially owned by a medical practitioner, and
  - (b) any share which is not so owned is legally and beneficially owned by a person referred to in subsection (2)(b).
- (4) Regulations may make provision as to the effect, in relation to a general medical services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.
- (5) In this section—

“health care professional”, “NHS employee”, “section 50 employee”, “section 64 employee”, “section 92 employee”, “section 107 employee”, “section 17C employee” and “Article 15B employee” have the meaning given by section 51.

#### **45      GMS contracts: payments**

- (1) The Welsh Ministers may give directions as to payments to be made under general medical services contracts.
- (2) A general medical services contract must require payments to be made under the contract in accordance with directions under this section.
- (3) Directions under subsection (1) may in particular—
  - (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance,
  - (b) provide for payments to be made by reference to—
    - (i) any scheme or scale specified in the direction, or
    - (ii) a determination made by any person in accordance with factors specified in the direction,
  - (c) provide for the making of payments in respect of individual practitioners,
  - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Local Health Board only if it is satisfied as to certain conditions),
  - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before giving a direction under subsection (1), the Welsh Ministers—
  - (a) must consult any body appearing to them to be representative of persons to whose remuneration the direction would relate, and
  - (b) may consult such other persons as they consider appropriate.
- (5) “Payments” includes fees, allowances, reimbursements, loans and repayments.

#### **46      GMS contracts: prescription of drugs, etc**

- (1) A general medical services contract must contain provision requiring the contractor or contractors to comply with any directions given by the Welsh Ministers for the purposes of this section as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the contract.

- (2) A direction under this section must, subject to subsection (3), be given by regulations.
- (3) A direction under this section may be given by an instrument in writing where it gives effect to a request made in writing to the Welsh Ministers by a person who is a holder of a Community marketing authorization or United Kingdom marketing authorisation in respect of the drug, medicine or other substance to which the request relates.
- (4) “Community marketing authorization” and “United Kingdom marketing authorisation” have the meaning given by regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994 ([S.I. 1994/3144](#)).

#### **47      GMS contracts: other required terms**

- (1) A general medical services contract must contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).
- (2) Regulations under subsection (1) may in particular make provision as to—
  - (a) the manner in which, and standards to which, services must be provided,
  - (b) the persons who perform services,
  - (c) the persons to whom services will be provided,
  - (d) the variation of contract terms (other than terms required by or under this Part),
  - (e) rights of entry and inspection (including inspection of clinical records and other documents),
  - (f) the circumstances in which, and the manner in which, the contract may be terminated,
  - (g) enforcement,
  - (h) the adjudication of disputes.
- (3) Regulations making provision under subsection (2)(c) may make provision as to the circumstances in which a contractor or contractors—
  - (a) must or may accept a person as a patient to whom services are provided under the contract,
  - (b) may decline to accept a person as such a patient, or
  - (c) may terminate his or their responsibility for a patient.
- (4) Regulations under subsection (2)(d) may—
  - (a) make provision as to the circumstances in which a Local Health Board may impose a variation of contract terms,
  - (b) make provision as to the suspension or termination of any duty under the contract to provide services of a prescribed description.
- (5) Regulations making provision of the kind described in subsection (4)(b) may prescribe services by reference to the manner or circumstances in which they are provided.
- (6) Regulations under subsection (1) must make provision as to the right of patients to choose the persons from whom they receive services.

#### **48      GMS contracts: disputes and enforcement**

- (1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general medical services contract.

- (2) Regulations under subsection (1) may make provision—
- (a) for the referral of the terms of the proposed contract to the Welsh Ministers, and
  - (b) for the Welsh Ministers, or a person appointed by them, to determine the terms on which the contract may be entered into.
- (3) Regulations may make provision for a person or persons entering into a general medical services contract to be regarded as a health service body for any purposes of section 7, in circumstances where he or they so elect.
- (4) Regulations under subsection (3) may include provision as to the application of section 7 in cases where—
- (a) persons practising in partnership elect to become a health service body, and
  - (b) there is a change in the membership of the partnership.
- (5) Where—
- (a) by virtue of regulations under subsection (3), section 7(11) applies in relation to a general medical services contract, and
  - (b) a direction as to payments is made under that subsection in relation to the contract,
- the direction is enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

### *Performance of primary medical services*

## **49 Persons performing primary medical services**

- (1) Regulations may provide that a health care professional of a prescribed description may not perform any primary medical service for which a Local Health Board is responsible unless he is included in a list maintained under the regulations by a Local Health Board.
- (2) For the purposes of this section—
- (a) “health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),
  - (b) a Local Health Board is responsible for a medical service if it provides the service, or secures its provision, by or under any enactment.
- (3) Regulations under this section may make provision in relation to lists under this section and in particular as to—
- (a) the preparation, maintenance and publication of a list,
  - (b) eligibility for inclusion in a list,
  - (c) applications for inclusion (including provision as to the Local Health Board to which an application must be made, and for the procedure for applications and the documents to be supplied on application),
  - (d) the grounds on which an application for inclusion may or must be granted or refused,
  - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits),

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- (f) suspension or removal from a list (including provision for the grounds for, and consequences of, suspension or removal),
- (g) circumstances in which a person included in a list may not withdraw from it,
- (h) payments to be made in respect of a person suspended from a list (including provision for the amount of the payment, or the method of calculating the payment, to be determined by the Welsh Ministers or a person appointed by them),
- (i) the criteria to be applied in making decisions under the regulations,
- (j) appeals against decisions made by a Local Health Board under the regulations, and
- (k) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals,

and may make any provision corresponding to anything in sections 107 to 115.

- (4) Regulations under this section may, in particular, also provide for—
  - (a) a person's inclusion in a list to be subject to conditions determined by a Local Health Board,
  - (b) a Local Health Board to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from a list),
  - (d) the review by a Local Health Board of decisions made by it by virtue of the regulations.
- (5) The imposition of such conditions must be with a view to—
  - (a) preventing any prejudice to the efficiency of the services to which a list relates, or
  - (b) preventing fraud.
- (6) Regulations making provision as to the matters referred to in subsection (3)(k) may in particular authorise the disclosure of information—
  - (a) by a Local Health Board to the Welsh Ministers, and
  - (b) by the Welsh Ministers to a Local Health Board.

*Other arrangements for the provision of primary medical services*

## **50 Arrangements by Local Health Boards for the provision of primary medical services**

- (1) A Local Health Board may make one or more agreements with respect to its area under which primary medical services are provided (otherwise than by the Local Health Board).
- (2) An agreement must be in accordance with regulations under section 52.
- (3) An agreement may not combine arrangements for the provision of primary medical services with arrangements for the provision of primary dental services.
- (4) An agreement may not combine arrangements for the provision of primary medical services with arrangements for the provision of local pharmaceutical services.
- (5) But an agreement may include arrangements for the provision of services which are not primary medical services but which may be provided under this Act, other than

under Part 6 (general ophthalmic services) or Chapter 1 or 2 of Part 7 (pharmaceutical services and local pharmaceutical services under pilot schemes).

- (6) Regulations may provide—
- (a) for functions which are exercisable by a Local Health Board in relation to an agreement to be exercisable on behalf of the Local Health Board 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 (c. 29) to be exercisable on behalf of the Board by the Local Health Board.
- (7) In this Act, arrangements for the provision of services made under this section are called “section 50 arrangements”.

## **51 Persons with whom agreements may be made under section 50**

- (1) A Local Health Board may make an agreement under section 50 only with one or more of the following—
- (a) an NHS trust or an NHS foundation trust,
  - (b) a medical practitioner who meets the prescribed conditions,
  - (c) a health care professional who meets the prescribed conditions,
  - (d) an individual who is providing services—
    - (i) under a general medical services contract or a general dental services contract or an English general medical services contract or an English general dental services contract,
    - (ii) in accordance with section 50 arrangements, section 64 arrangements, section 92 arrangements, section 107 arrangements, section 17C arrangements or Article 15B arrangements, or
    - (iii) under section 17J or 25 of the 1978 Act or Article 57 or 61 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),or has so provided them within such period as may be prescribed,
  - (e) an NHS employee, a section 50 employee, a section 64 employee, a section 92 employee, a section 107 employee, a section 17C employee or an Article 15B employee,
  - (f) a qualifying body,
  - (g) a Primary Care Trust or Local Health Board.
- (2) The power under subsection (1) to make an agreement with a person falling within paragraph (d) or (e) of that subsection is subject to such conditions as may be prescribed.
- (3) In this section—
- “the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29),
  - “Article 15B arrangements” means arrangements for the provision of services made under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972,

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“Article 15B employee” means an individual who, in connection with the provision of services in accordance with Article 15B arrangements, is employed by a person providing or performing those services,

“English general dental services contract” means a contract under section 100(2) of the National Health Service Act 2006 (c. 41),

“English general medical services contract” means a contract under section 84(2) of that Act,

“health care professional” means a person who is a member of a profession regulated by a body mentioned (at the time the agreement in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),

“NHS employee” means an individual who, in connection with the provision of services in the health service, the Scottish health service or the Northern Ireland health service, is employed by—

- (a) an NHS trust, an NHS foundation trust or (in Northern Ireland) a Health and Social Services Trust,
- (b) a Primary Care Trust or Local Health Board,
- (c) a person who is providing services under a general medical services contract or a general dental services contract or an English general medical services contract or an English general dental services contract,
- (d) an individual who is providing services as specified in subsection (1)(d)(iii),

“the Northern Ireland health service” means the health service within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),

“qualifying body” means a company which is limited by shares all of which are legally and beneficially owned by persons falling within paragraph (a), (b), (c), (d), (e) or (g) of subsection (1),

“the Scottish health service” means the health service within the meaning of the National Health Service (Scotland) Act 1978 (c. 29),

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

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

“section 92 arrangements” means arrangements for the provision of services made under section 92 of the National Health Service Act 2006 (c. 41),

“section 107 arrangements” means arrangements for the provision of services made under section 107 of that Act,

“section 92 employee” means an individual who, in connection with the provision of services in accordance with section 92 arrangements, is employed by a person providing or performing those services,

“section 107 employee” means an individual who, in connection with the provision of services in accordance with section 107 arrangements, is employed by a person providing or performing those services,

“section 50 employee” means an individual who, in connection with the provision of services in accordance with section 50 arrangements, is employed by a person providing or performing those services,



“section 64 employee” means an individual who, in connection with the provision of services in accordance with section 64 arrangements, is employed by a person providing or performing those services.

## **52 Regulations about section 50 arrangements**

- (1) The Welsh Ministers may make regulations about the provision of services in accordance with section 50 arrangements.
- (2) The regulations must include provision for participants other than Local Health Boards to withdraw from section 50 arrangements if they wish to do so.
- (3) The regulations may, in particular—
  - (a) provide that section 50 arrangements may be made only in prescribed circumstances,
  - (b) provide that section 50 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 50 arrangements,
  - (d) impose conditions (including conditions as to qualifications and experience) to be satisfied by persons performing services in accordance with section 50 arrangements,
  - (e) require details of section 50 arrangements to be published,
  - (f) make provision with respect to the variation and termination of section 50 arrangements,
  - (g) provide for parties to section 50 arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 7,
  - (h) provide for directions, as to payments, made under section 7(11) (as it has effect as a result of regulations made by virtue of paragraph (g)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court.
- (4) The regulations may also require payments to be made under the arrangements in accordance with directions given for the purpose by the Welsh Ministers.
- (5) A direction may make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (6) The regulations may also include provision requiring a Local Health Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person who is providing services under section 50 arrangements and who so requests.
- (7) The regulations may also include provision for the resolution of disputes as to the terms of any proposed section 50 arrangements, and in particular may make provision—
  - (a) for the referral of the terms of the proposed arrangements to the Welsh Ministers, and
  - (b) for the Welsh Ministers or a person appointed by them to determine the terms on which the arrangements may be entered into.

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- (8) The regulations must provide for the circumstances in which a person providing primary medical services under section 50 arrangements—
- (a) must or may accept a person as a patient to whom such services are so provided,
  - (b) may decline to accept a person as such a patient,
  - (c) may terminate his responsibility for a patient.
- (9) The regulations must make provision as to the right of patients to choose the persons from whom they receive services under section 50 arrangements.

*Assistance and support*

**53 Assistance and support: primary medical services**

- (1) A Local Health Board may provide assistance or support to any person providing or proposing to provide—
- (a) primary medical services under a general medical services contract, or
  - (b) primary medical services in accordance with section 50 arrangements.
- (2) Assistance or support provided by a Local Health Board under subsection (1) is provided on such terms, including terms as to payment, as the Local Health Board considers appropriate.
- (3) “Assistance” includes financial assistance.

*Local Medical Committees*

**54 Local Medical Committees**

- (1) A Local Health Board may recognise a committee formed for its area, or for its area and that of one or more other Local Health Boards, which it is satisfied is representative of—
- (a) the persons to whom subsection (2) applies, and
  - (b) the persons to whom subsection (3) applies.
- (2) This subsection applies to—
- (a) each medical practitioner who, under a general medical services contract entered into by him, is providing primary medical services in the area for which the committee is formed, and
  - (b) each medical practitioner who is providing general ophthalmic services in that area.
- (3) This subsection applies to each other medical practitioner—
- (a) who is performing primary medical services in the area for which the committee is formed—
    - (i) pursuant to section 41(2)(a),
    - (ii) in accordance with section 50 arrangements, or
    - (iii) under a general medical services contract, and

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- (b) who has notified the Local Health Board that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).
- (4) A committee recognised under this section is called the Local Medical Committee for the area for which it is formed.
- (5) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (6) Regulations may require a Local Health Board, in the exercise of its functions relating to primary medical services, to consult any committee recognised by it under this section on such occasions and to such extent as may be prescribed.
- (7) A committee recognised under this section has such other functions as may be prescribed.
- (8) A committee recognised under this section must in respect of each year determine—
  - (a) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(a), and
  - (b) the amount of its administrative expenses for that year attributable to persons of whom it is representative under subsection (1)(b).
- (9) A Local Health Board may—
  - (a) on the request of a committee recognised by it, allot to that committee such sums for defraying the expenses referred to in subsection (8)(a) as the Local Health Board may determine, and
  - (b) deduct the amount of such sums from the remuneration of persons of whom the committee is representative under subsection (1)(a) under the general medical services contracts, or arrangements under section 71, entered into by those persons with the Local Health Board.
- (10) A committee recognised under this section must apportion the amount determined by it under subsection (8)(b) among the persons of whom it is representative under subsection (1)(b); and each such person must pay in accordance with the committee's directions the amount so apportioned to him.
- (11) The administrative expenses of a committee include the travelling and subsistence allowances payable to its members.

*Provision of accommodation by the Welsh Ministers*

**55 Use of accommodation: provision of primary medical services**

If the Welsh Ministers consider that any accommodation provided by them by virtue of this Act is suitable for use in connection with the provision of primary medical services, they may make the accommodation available on such terms as they consider appropriate to persons providing those services.