
STATUTORY INSTRUMENTS

2004 No. 288

The Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004

Transitional provisions applying until the coming into force of section 172(1) of the Act

7.—(1) Until the coming into force of section 172(1) of the Act in relation to general dental services contracts, the following transitional provisions shall apply.

(2) In relation to the Health Services and Public Health Act 1968—

(a) section 59 (extension of power of user by Crown of patented invention to user for certain health services) shall be read as if—

(i) in subsection (2), after the words “in the case of pharmaceutical services” there were inserted the words “and general dental services”,

(ii) in subsection (2A), the following words were inserted at the end—

“and in the case of personal dental services shall also be construed as a reference to personal dental services under section 28C of the 1977 Act”, and

(iii) in subsection (2C) the words “and primary dental services” were omitted in both places where they occur; and

(b) section 63(2) (provision of instruction of officers etc) shall be read as if—

(i) in paragraph (aa) the words “or primary dental service” were omitted, and

(ii) the following paragraph were inserted after paragraph (ba)—

“(bb) the provision or performance of personal dental services in accordance with arrangements made under section 28C of the 1977 Act.”.

(3) In relation to the Patents Act 1977, section 56(4)(a) (interpretation etc, of provisions about Crown use) shall be read as if—

(a) after the words “in the case of pharmaceutical services” there were inserted the words “and general dental services”;

(b) in sub-paragraph (ai) the words “or primary dental services” were omitted; and

(c) the following sub-paragraph were inserted after sub-paragraph (iv)—

“(v) personal dental services provided in accordance with arrangements made under section 28C of the 1977 Act.”.

(4) In relation to the 1977 Act—

(a) in section 15(1)(a) (duty of Health Authority in relation to family health services) the reference to “primary dental services” shall be read as if it were a reference to “general dental services”;

(b) section 18A(3) (provision of services etc) shall be read as if—

(i) in paragraph (a) the words “general dental” were inserted before the words “general ophthalmic”,

- (ii) in paragraph (b) the words “or primary dental services” were omitted, and
- (iii) the following paragraph were inserted after paragraph (b)—
 - “(c) performing personal dental services under an agreement made under section 28C below,”;
- (c) section 26 (supply of goods and services by the Secretary of State) shall be read as if—
 - (i) in subsections (2)(a) and (4)(a) the words “general dental services” were inserted before the words “general ophthalmic services”, and
 - (ii) in subsections (2)(b) and (4)(b) the words “or a general dental services contract” were omitted;
- (d) section 28D shall be read as if—
 - (i) in subsection (1)—
 - (aa) in paragraph (bc)(i) the words “or general dental services contract” were omitted; and
 - (bb) in paragraph (bc)(iii) there were inserted after the word “under”, “section 35 of this Act,”, and
 - (ii) in subsection (2) in the definition of “NHS employee”—
 - (aa) the words “or general dental services contract” were omitted; and
 - (bb) a new paragraph (cc) were inserted as follows—
 - “(cc) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 36(1)(a);”
- (e) section 43(1) (persons authorised to provide pharmaceutical services) shall be read as if for the words “general medical services” there were substituted the words “primary medical services”;
- (f) section 43D(10) (supplementary lists) shall be read as if for the words “paragraphs (a) to (e), a supplementary list” there were substituted “paragraphs (b) to (e), a supplementary list, a list under section 28X,”;
- (g) section 44(5)(a) (recognition of local representative committees) shall be read as if the words “ medical practitioner or” were omitted;
- (h) section 45 (functions of local representative committees) shall be read as if—
 - (i) in subsection (1)(b), for the words “section 44(A1)(c) or (B1)(c) above” there were substituted the words “section 44(B1)(c) above”,
 - (ii) in subsection (1ZA)(b)—
 - (aa) for the words “section 44(ZA1)(c) or (A2)(c) above” there were substituted the words “section 44(A2)(c) above”; and
 - (bb) the words “personal medical or” were omitted,
 - (iii) in subsection (1C)—
 - (aa) for the words “an area under subsection (ZA1)(b) or (c) or (A1)(b) or (c), (A2)(b) or (c) or (B1)(b) or (c) or (B2)(b)(ii)” there were substituted the words “subsection (A2)(b) or (c) or (B1)(b) or (c) or (B2)(b)(ii)”; and
 - (bb) paragraphs (za) to (b) were omitted,
 - (iv) in subsection (3), the words “general dental services” were inserted before the words “general ophthalmic services”, and

- (v) in subsection (4), after the words “persons providing local pharmaceutical services” there were inserted the words “deputy dental practitioners or section 28C dental practitioners, as the case may be”;
- (i) section 49N(1) (national disqualification) shall be read as if the word “and” were inserted at the end of paragraph (b) and the following paragraph was inserted after that paragraph—
- “(bb) all lists under section 28X above, or any list corresponding to such a list, and”;
- (j) section 52 (use of accommodation) shall be read as if the words “general dental services” were inserted before the words “general ophthalmic services”;
- (k) section 72(5)(d) (permission for use of facilities in private practice) shall be read as if the words “or primary dental services” and “or a general dental services contract” were omitted;
- (l) section 103(1)(a) (special arrangements as to payment of remuneration) shall be read as if the words “or primary dental services” were omitted;
- (m) section 128(1) (interpretation and construction) shall be read as if in the definition of “terms of service” the words “general dental services” were inserted before the words “general ophthalmic services”;
- (n) paragraph 1(5) of Schedule 8A (local pharmaceutical services schemes) shall be read as if for the words “personal medical services” there were substituted the words “primary medical services”; and
- (o) Schedule 9A (the Family Health Services Appeal Authority) shall be read as if—
- (i) in paragraph 6 there were inserted before paragraph (c) the following paragraph—
- “(bb) dental practitioner providing general dental services, or performing personal dental services under section 28C arrangements;”, and
- (ii) in paragraph 10(aa) for the words “paragraph 6(c) or (d) above” there were substituted the words “paragraph 6(b), (c) or (d) above”.
- (5) In relation to section 1(6) of the Community Health Councils (Access to Information) Act 1988(1) (access to meetings and documents of Community Health Councils), paragraph (ab) shall be read as if the words “section 28K or” were omitted.
- (6) In relation to section 240(4) of the Copyright, Designs and Patent Act 1988 (Crown use of designs)—
- (a) paragraph (za) shall be read as if the words “or primary dental services” were omitted; and
- (b) paragraph (a)(i) shall be read as if after the words “in the case of pharmaceutical services” there were inserted the words “and general dental services”.
- (7) In relation to section 17 of the Health and Medicines Act 1988 (arrangements for the provision of general medical services etc), subsection (1) shall be read as if the number “35” were inserted before the number “38”.
- (8) In relation to Schedule 4A to the Water Industry Act 1999(2) (premises that are not to be disconnected for non-payment of charges), paragraph 7 shall be read as if the words “or primary dental services” were omitted.
- (9) In relation to the Trade Union and Labour (Consolidation) Act 1992, section 279 (health service practitioners) shall be read as if—
- (a) in subsection (1) the number “35” were inserted before the number “38”;
- (b) in subsection (2)—

(1) 1988 c. 24.
(2) 1999 c. 56.

- (i) the words “or primary dental services” were omitted, and
- (ii) for the words “section 28K or 28Q” there were substituted the words “section 28Q”; and
- (c) a new subsection (3) were added at the end as follows—
 - “(3) In this Act “worker” includes an individual regarded in his capacity as one who works or normally works or seeks to work as a person performing personal dental services in accordance with arrangements made by a Strategic Health Authority or Primary Care Trust under section 28C of the National Health Service Act 1977.”.
- (10) In relation to of the Health Service Commissioners Act 1993—
 - (a) section 2A(1) (health service providers subject to investigation) shall be read as if—
 - (i) in paragraph (a), for the words “section 28K or 28Q” there were substituted the words “section 28Q”,
 - (ii) in paragraph (c), as if for the words “primary dental services” there were substituted the words “personal dental services”,
 - (iii) a new paragraph (e) were inserted after paragraph (d) as follows—
 - “(e) individuals undertaking to provide general dental services under Part 2 of the 1977 Act.”;
 - (b) section 2A(2) shall be read as if—
 - (i) in paragraph (a), for the words “section 28K or 28Q” there were substituted the words “section 28Q”,
 - (ii) in paragraph (c), for the words “primary dental services” there were substituted the words “personal dental services”, and
 - (iii) new paragraph (d) were inserted after paragraph (c) as follows—
 - “(d) individuals undertaking to provide general dental services under Part 2 of the 1977 Act.”; and
 - (c) section 6(5) (general health services and service committees) shall be read as if the number “35” were inserted before the number “38”.
- (11) In relation to the Employment Rights Act 1996, section 43K(1) (extension of meaning of “maker” etc.) shall be read as if—
 - (a) in paragraph (ba), for the words “section 28K or 28Q” there were substituted the words “section 28Q”; and
 - (b) in paragraph (c)(i), the number “35” were inserted before the number “38”.
- (12) In relation to the 2001 Act, Schedule 1 (exempt information relating to health services) shall be read as if—
 - (a) in paragraph 11, before the word “services” in each place it appears, the words “personal dental” were inserted;
 - (b) in paragraph 12, the words “personal medical services or” were omitted;
 - (c) the following paragraph were inserted after paragraph 12—
 - “**12A.** Information relating to a particular person who—
 - (a) is or was formerly providing primary medical services under a contract under section 28Q of the 1977 Act,
 - (b) is or was formerly included in, or is an applicant for inclusion in, a list under section 28X of the 1977 Act.”; and
 - (d) in paragraph 13, for “11, or 12” there were substituted “11, 12 or 12A”.

(13) In relation to section 17 of the National Health Service Reform and Health Care Professions Act 2002(3) (additional functions of PCT Patients' Forums), subsection (1)(fa) shall be read as if the words “or primary dental services” were omitted.