



# Primary Medical Services (Scotland) Act 2004 2004 asp 1

## PART 1

### PROVISION OF PRIMARY MEDICAL SERVICES

#### *Section 17C arrangements*

## **2 Provision of primary medical services: section 17C arrangements**

- (1) The 1978 Act is amended as follows.
- (2) In section 17C (agreements by Health Boards for provision by others of personal medical services etc.)—
  - (a) in subsections (1)(a) and (2)(a) and (b)(i), for the words “personal medical services”, in each place where they occur, substitute “primary medical services”,
  - (b) in subsection (2), for “; but (b)” substitute—

“(2A) An agreement made under this section—

    - (a) for the provision of primary medical services may include arrangements for the provision of services which are not primary medical services and may provide for such other services to be performed in any place where, by virtue of section 2C, primary medical services may be performed;
    - (b) for the provision of personal dental services”,
  - (c) subsection (3)(a) is repealed,
  - (d) in subsection (4), the words “personal medical services or” are repealed,
  - (e) in subsection (6), the definition of “personal medical services” is repealed.
- (3) In section 17D (persons with whom agreement under section 17C may be made)—
  - (a) for paragraph (b) of subsection (1) substitute—

“(b) in the case of an agreement under which primary medical services are provided—

*Status: Point in time view as at 01/04/2004.*

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- (i) a medical practitioner who satisfies the prescribed conditions;
  - (ii) a health care professional who satisfies the prescribed conditions;
  - (iii) a person who is providing primary medical services in accordance with a general medical services contract;
  - (iv) a person who is providing primary medical services in accordance with a section 28Q contract or an individual who is providing general medical services in accordance with Article 56 of the 1972 Order;
  - (v) a person who is providing primary medical services in accordance with section 17C arrangements or section 28C arrangements or personal medical services in accordance with Article 15B arrangements;
  - (vi) an individual who is providing general dental services;
  - (vii) a person who is providing primary dental services in accordance with a section 28K contract or an individual who is providing general dental services in accordance with Article 61 of the 1972 Order;
  - (viii) a person who is providing personal dental services in accordance with section 17C arrangements;
  - (ix) a person who is providing primary dental services in accordance with section 28C arrangements or personal dental services in accordance with Article 15B arrangements;”,
- (b) in paragraph (d) of that subsection leave out “or a section 28C employee” and insert “, a section 28C employee or (in the case of an agreement under which primary medical services are provided) an Article 15B employee ”,
- (c) after that subsection insert—
- “(1A) The power under subsection (1) to make an agreement with a person or, as the case may be, an individual falling within paragraph (b) (iii) to (ix), or (in the case of an agreement under which primary medical services are provided) paragraph (d) or (e), of that subsection is subject to such conditions as may be prescribed.
- (1B) In relation to an agreement under section 17C under which primary medical services are provided which is entered into with a partnership, regulations may make provision as to the effect on the agreement of a change in the membership of the partnership.”,
- (d) in subsection (2)—
- (i) after “section” in the first place where it occurs insert—
 

““the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972 (1972 No. 1256 (N.I. 14));”,
  - (ii) after the definition of “the 1977 Act” insert—
 

““Article 15B arrangements” means arrangements for the provision of services made under Article 15B of the 1972 Order;

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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 those services;

“health care professional” means a member of a profession which is 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);

“Local Health Board” has the same meaning as in the 1977 Act;”,

(iii) in the definition of “NHS employee”, after “Wales” insert “ or, in relation to paragraph (b) below, Northern Ireland ”,

(iv) in that definition, for paragraph (b) substitute—

“in the case of an agreement under which primary medical services are provided—

- (i) a Health Board;
- (ii) a Primary Care Trust or a Local Health Board;
- (iii) an NHS trust, an NHS foundation trust or (in Northern Ireland) a Health and Social Services Trust;
- (iv) a person who is providing primary medical services in accordance with a general medical services contract or a section 28Q contract or an individual who is providing general medical services in accordance with Article 56 of the 1972 Order;
- (v) an individual who is providing general dental services;
- (vi) a person who is providing primary dental services in accordance with a section 28K contract or an individual who is providing general dental services in accordance with Article 61 of the 1972 Order;

and in this paragraph NHS foundation trust, NHS trust and Primary Care Trust have the same meanings as in the 1977 Act;”,

(v) the definition of “qualifying medical practitioner” is repealed,

(vi) in each of the definitions of “section 17C employee” and “section 28C employee”, for “an individual providing those services” substitute—

- “(a) where the arrangements are for the provision of primary medical services, a person providing services in accordance with the arrangements;
- (b) where the arrangements are for the provision of personal dental services, an individual providing services in accordance with the arrangements”;

(vii) after the definition of “section 28C employee” insert—

““section 28K contract” means a general dental services contract under section 28K of the 1977 Act; and

“section 28Q contract” means a general medical services contract under section 28Q of the 1977 Act.”,

(e) after that subsection insert—

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- “(3) The references in subsection (1)(b)(iii) to (ix) to a person or individual who is providing services include a person or, as the case may be, an individual who has provided them within such period as may be prescribed.”
- (4) In section 17E (regulations concerning section 17C arrangements)—
- (a) in subsection (2)(b), the words “medical practitioners performing personal medical services, and” are repealed,
- (b) in subsection (3)—
- (i) after paragraph (c) insert—
- “(ca) impose conditions (including conditions as to qualifications and experience) to be satisfied by persons performing primary medical services in accordance with section 17C arrangements;
- (cb) provide for the circumstances in which a person providing primary medical services under section 17C arrangements—
- (i) must, or may, accept a person as a patient to whom such services are provided under section 17C arrangements;
- (ii) may decline to accept a person as such a patient;
- (iii) may terminate responsibility for a patient;
- (cc) make provision as to the right of patients to choose the persons from whom they are to receive primary medical services under section 17C arrangements;”,
- (ii) paragraphs (f) and (g) are repealed,
- (c) after that subsection insert—
- “(3A) The regulations may also require payments to be made as respects the provision or performance of primary medical services under section 17C arrangements in accordance with directions given for the purpose by the Scottish Ministers.
- (3B) A direction under subsection (3A) 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.
- (3C) The regulations may also include provision requiring a Health Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person providing services under section 17C arrangements who so requests.
- (3D) The regulations may make provision for the resolution of disputes as to the terms of any proposed section 17C arrangements for the provision of primary medical services, including, without prejudice to that generality, provision for—
- (a) the referral of the terms of the proposed arrangements to the Scottish Ministers; and

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- (b) the Scottish Ministers, or a person or panel of persons appointed by them, to determine the terms on which the arrangements may be made.”,
  - (d) subsections (5) and (7) are repealed,
  - (e) in subsection (6), for “personal medical services” substitute “primary medical services”.
- (5) Section 17H (immunisation under section 17C arrangements) is repealed.

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**Commencement Information**

- I1** S. 2(1)-(4) in force at 13.2.2004 for specified purposes by S.S.I. 2004/58, art. 2(1), Sch. (with art. 2(2))
- I2** S. 2(1)-(4) in force at 1.4.2004 in so far as not already in force by S.S.I. 2004/58, art. 2(3)
- I3** S. 2(5) in force at 1.4.2004 by S.S.I. 2004/58, art. 2(3)

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