National Health Service (Primary Care) Act 1997

1997 CHAPTER 46

[F2][F1][F2]PART I

PILOT SCHEMES FOR PRIMARY CARE

[F1][F2] General

Textual Amendments

F1 Pt. I ceases to have effect for specified purposes (S.) (1.4.2004) by virtue of Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 3**, 9(1); S.S.I. 2004/58, art. 2(3)

F2 Pt. I repealed (E.W.) (1.4.2004 for specified purposes, 1.4.2006 in so far as not already in force) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 178, 199(1)(4), **Sch. 14 Pt. 4** Note (with S.I. 2004/865, arts. 1(1), 58); S.I. 2004/288, arts. 4(3)(b), 6(2)(p) (with art. 8) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 5(2)(p) (with arts. 6, 7) (as amended by S.I. 2004/1019 and S.I. 2006/345), S.I. 2005/2925, arts. 6(2)(b), 11, S.I. 2006/345, art. 4(2)(b)

9 Relationship between this Part and the 1977 Act.

(1) The provisions of the 1977 Act, apart from section **[**[F3]16D**]** (power of Secretary of State to direct a Health Authority to exercise **[**[F3]his functions**]**), apply in relation to functions of the Secretary of State under this Part (exercisable in relation to England and Wales) as if they were functions of his under Part I of the 1977 Act.

[[F4](1A) In subsection (1), the words from “, apart from” to “functions),” have effect only in relation to Wales.**]**

(2) The 1977 Act (and in particular section 17) has effect in relation to piloted services—

(a) subject to any provision of, or made under, this Part; but

(b) otherwise as if those services were provided as a result of the delegation by the Secretary of State (by directions given under section **[**[F5]16D**]** of the 1977 Act) of functions of his under Part I of that Act.

(3) The functions of a Health Authority in relation to piloted services are primary functions of the Authority for the purposes of the [M1]National Health Service and Community Care Act 1990.

Textual Amendments

F3 Words in s. 9(1) substituted (1.9.1999 for E., 1.10.1999 for S., and 1.12.1999 for W.) by 1999 c. 8, s. 65(1), **Sch. 4 para. 88(5)(a)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.S.I. 1999/90, **art. 2(b)**; S.I. 1999/3184, art. 2(2), **Sch. 2**

F4 S. 9(1A) inserted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, **ss. 4(1)**, 42(3); S.I. 2002/2478, **art. 3(1)(a)**

F5 Words in s. 9(2)(b) substituted (1.9.1999 for E., 1.10.1999 for S., and 1.12.1999 for W.) by 1999 c. 8, s. 65(1), **Sch. 4 para. 88(5)(b)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.S.I. 1999/90, **art. 2(b)**; S.I. 1999/3184, art. 2(2), **Sch. 2**

Commencement Information

I1 S. 9 wholly in force at 1.10.1998; s. 9 not in force at Royal Assent see s. 41; s. 9(1)(2) in force at 15.8.1997 by S.I. 1997/1780, art. 2(1), **Sch.**; s. 9(3) in force for certain purposes at 1.4.1998 by S.I. 1998/631, art. 2(a), **Sch. 1**; s. 9 in force at 1.10.1998 in so far as not already in force by S.I. 1998/1998, art. 2(2)(a), **Sch. 1**

Marginal Citations

M1 1990 c. 19.

10 Relationship between this Part and the 1978 Act.

(1) The provisions of the 1978 Act apply in relation to functions of the Secretary of State under this Part (exercisable in relation to Scotland) as if they were functions of his under Part I of the 1978 Act.

(2) The 1978 Act (and in particular section 2) has effect in relation to piloted services—

(a) subject to any provision of, or made under, this Part; but

(b) otherwise as if those services were provided as a result of the delegation by the Secretary of State (by regulations made or directions given under section 2 of the 1978 Act) of functions of his under that Act.

11 Medical practitioners to be suitably experienced.

[[F6](1) Any medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme must be suitably experienced.

(2) Subsection (1) does not prevent the performance of personal medical services by—

(a) a person who is acting in the course of acquiring the experience prescribed by regulations made under section 32 of the 1977 Act or section 22 of the 1978 Act;

(b) a person who is provisionally registered under section 15 or 21 of the [M2]Medical Act 1983, acting in the course of his employment in a resident

medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act); or

(c) such other category of person as may be prescribed.

(3) Sections 31(2) and 32 of the 1977 Act (meaning of "suitably experienced") apply for the purposes of this section as they apply for the purposes of section 31 of that Act.

(4) In its application by virtue of subsection (3), section 32 of the 1977 Act is to be read as if references to the applicant were references to a medical practitioner who is proposing to perform personal medical services in connection with the provision of such services under a pilot scheme.

(5) Sections 21(2) and 22 of the 1978 Act (meaning of "suitably experienced") apply for the purposes of this section as they apply for the purposes of section 21 of that Act.

(6) In its application by virtue of subsection (5), section 22(2) of the 1978 Act is to be read as if references to the applicant were references to a medical practitioner who is proposing to perform personal medical services in connection with the provision of such services under a pilot scheme.**]**

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

Marginal Citations

M2 1983 c. 54.

12 Leaving medical lists.

[[F6](1) Except in such circumstances and to such extent as may be prescribed, a medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme may not provide general medical services under Part II of the 1977 Act or Part II of the 1978 Act.

(2) Except in such circumstances as may be prescribed, **[**[F7]a Primary Care Trust, Health Authority or Health Board**]** must remove from their medical list the name of any medical practitioner who is performing personal medical services in connection with the provision of such services under a pilot scheme made **[**[F8]by any authority**]**.

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

F7 Words in s. 12(2) substituted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 5(a)**; S.I. 2002/2478 art. 3(1)(c)

F8 Words in s. 12(2) substituted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, ss. 4(3), 42(3), Sch, **3** Pt. 1 para. 5(b); S.I. 2002/2478, **art. 3(1)(c)**

13 Preferential treatment on transferring to medical lists.

[[F6](1) Before the Secretary of State approves a pilot scheme, he must determine whether a participating medical practitioner is to be given preferential treatment under Schedule 1 if he makes an application for his name to be included in **[**[F9]the medical list of the relevant body**]** after ceasing to perform personal medical services under the scheme.

[F10]**[**(1A) For the purposes of this section—

(a) where the authority concerned is a Health Authority or a Health Board, the relevant body is that Authority or Board;

(b) where the authority concerned is a Strategic Health Authority, the relevant body is the Primary Care Trust designated in relation to the pilot scheme by the Secretary of State.**]**

(2) Before a pilot scheme is varied so as to permit a new medical practitioner to perform personal medical services under the scheme, the Secretary of State must make a determination under this section in relation to the new practitioner.

(3) The Secretary of State may at any time make a determination under this section varying a determination about a medical practitioner if he is asked to do so by the practitioner concerned.

(4) Before making any determination under this section, the Secretary of State must publish the criteria by reference to which he will make it.

(5) Those criteria may be—

(a) criteria applying generally to all determinations;

(b) criteria applying only to the pilot scheme in question; or

(c) a mixture of both.

(6) The Secretary of State must notify the **[**[F11]relevant body**]** and the medical practitioner or practitioners concerned in writing of any determination made by him under this section.

(7) Different determinations may be made with respect to different medical practitioners performing personal medical services under the same pilot scheme.

(8) A determination may identify the medical practitioner or practitioners to which it applies by name or in any other way.

(9) Schedule 1 has effect in relation to preferential treatment for medical practitioners who wish to transfer to medical lists.**]**

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

F9 Words in s. 13(1) substituted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 6(2)**; S.I. 2002/2478, **art. 3(1)(c)**

F10 S. 13(1A) inserted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 6(3)**; S.I. 2002/2478, **art. 3(1)(c)**

F11 Words in s. 13(6) substituted (1.10.2002 for E. and W. and otherwise*prosp.*) by 2002 c. 17, ss. 4(3), 42(3), **Sch. 3 Pt. 1 para. 6(4)**; S.I. 2002/2478, **art. 3(1)(c)**

Commencement Information

I2 S. 13 wholly in force at 1.4.1998; s. 13 not in force at Royal Assent see s. 41; s. 13 (1)(3)-(8) in force at 15.8.1997 by S.I. 1997/1780, art. 2(1), **Sch.**; s. 13(2)(9) in force at 1.4.1998 by S.I. 1998/631, art. 2(a), **Sch. 1**

[F12]14 . . . . . .

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

F12 S. 14 repealed (1.10.1999 for E., S., and 1.4.2000 for W.) by 1999 c. 8, s. 65(1)(2), Sch. 4 para. 88(6), **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.S.I. 1999/90, **art. 2(b)**; S.I. 2000/1041, art. 2(d), **Sch.**

15 Liabilities and obligations in relation to deputies.

[[F13](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 pilot scheme 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 pilot scheme practitioner, in connection with that practitioner's obligation to perform personal medical services under a pilot scheme.

(2) The regulations may, in particular—

(a) modify any liabilities or obligations which would otherwise be applicable by virtue of Part II of the 1977 Act or Part II of the 1978 Act;

(b) apply (with or without modifications) any provision made by or under Part II of the 1977 Act or Part II of the 1978 Act (including any provision so made by virtue of section 17 of the [M3]Health and Medicines Act 1988).

(3) In this section—

"Part II practitioner" means a medical practitioner who provides general medical services; and

"pilot scheme practitioner" means a medical practitioner who performs personal medical services under a pilot scheme.**]**

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

F13 S. 15 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

Marginal Citations

M3 1988 c. 49.

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

16 NHS contracts.

(1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate, that individual or body may make an application under this section to become a health service body.

(2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this section to become a single health service body.

(3) An application must—
  (a) be made to the Secretary of State in accordance with such provisions as may be prescribed; and
  (b) specify the pilot scheme in relation to which it is made.

(4) Except in such cases as may be prescribed, the Secretary of State may grant an application.

(5) If an application is granted, the Secretary of State must specify when it is to come into effect and, as from that time—
  (a) in the case of an application under subsection (1), the applicant is, and
  (b) in the case of an application under subsection (2), the applicants together are,

a health service body for the purposes of section 4 of the [M4]National Health Service and Community Care Act 1990 and section 17A of the 1978 Act (NHS contracts).

(6) Those sections have effect in relation to such a health service body ("a pilot scheme health service body"), acting as acquirer, as if the functions referred to in subsection (1) of those sections were the provision of piloted services.

(7) Except in such circumstances as may be prescribed, a pilot scheme health service body resulting from an application under subsection (2) is to be treated, at any time, as consisting of those providing piloted services under the scheme.

(8) A direction as to payment made under section 4(7) of the Act of 1990 or section 17A(8) of the 1978 Act against, or in favour of, a pilot scheme health service body is enforceable—
  (a) in England and Wales, in a county court (if the court so orders) as if it were a judgment or order of that court; and
  (b) in Scotland, in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

(9) Regulations may provide for a pilot scheme health service body to cease to be such a body in prescribed circumstances.

(10) The Secretary of State must—
  (a) maintain and publish a list of pilot scheme health service bodies;
  (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

(11) The list is to be published in such manner as the Secretary of State considers appropriate.

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

Commencement Information

I3 S. 16 wholly in force at 11.5.1998; s. 16 not in force at Royal Assent see s. 41; s. 16 in force for specified purposes at 30.10.1997 by S.I. 1997/2620, **art. 2(1)(b)**; s. 16(2) in force at 11.5.1998 in so far as not already in force by S.I. 1998/631, **art. 2(2)**

Marginal Citations

M4 1990 c. 19.

17 The Dental Practice Boards.

(1) Regulations may confer such powers or impose such duties on the Board, in relation to pilot schemes under which personal dental services are provided, as may be prescribed.

(2) The regulations may, in particular, make any of the following kinds of provision.

(3) They may authorise or require the Board—

(a) to perform on behalf of an authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the authority in accordance with a power conferred by the regulations;

(b) to conduct or commission surveys or other research;

(c) to carry on such other activities as may be prescribed.

(4) They may provide that functions conferred by the regulations are only to be exercised by the Board in accordance with directions of the Secretary of State.

(5) They may enable the Board to direct a dental practitioner to submit to the Board, in relation to treatment or a description of treatment that he has carried out or contemplates carrying out, such information (including estimates, radiographs, models and other items) as may be prescribed.

(6) In this section "the Board" means—

(a) in relation to England and Wales, the Dental Practice Board; and

(b) in relation to Scotland, the Scottish Dental Practice Board.**]]]**

Textual Amendments

F6 Ss. 11-13 repealed (S.) (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), s. 9(1), **sch. para. 2(5)**; S.S.I. 2004/58, art. 2(3)

Changes to legislation:
There are currently no known outstanding effects for the National Health Service (Primary Care) Act 1997, Cross Heading: General.