



Health Services and Public Health Act 1968

1968 CHAPTER 46

PART I

AMENDMENTS CONNECTED WITH THE NATIONAL HEALTH SERVICE

General medical, dental and ophthalmic Services and pharmaceutical Services

16 Constitution, and c, of Executive Councils in England and Wales

- (1) Schedule 1 to this Act shall be substituted for Schedule 5 to the 1946 Act.
- (2) Sub-paragraph (c) of paragraph 1 of the said Schedule 1 shall not operate to disqualify a person who, at the coming into operation of this section, holds office as a member of an Executive Council and has the qualifications mentioned in that sub-paragraph from continuing to hold office for the residue of the term for which he was appointed.
- (3) In relation to each such Council, the term of office of each of the members thereof appointed by virtue of paragraph 1(b) and (c) of the said Schedule 1 otherwise than in the place of a former member shall, notwithstanding anything in regulations made under paragraph 6 of that Schedule, be such as the Minister may determine.
- (4) In relation to each such Council, the term of office of each of the members first appointed by virtue of paragraph 1(f) or (g) of the said Schedule 1 shall be such as the Minister may determine.
- (5) In so far as any regulation, appointment or determination made under the said Schedule 5 could have been made under a corresponding provision of the Schedule substituted therefor by this section, it shall not be invalidated by the substitution, but shall have effect as if it had been made under that corresponding provision.
- (6) This section does not apply to Scotland.

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17 Alteration of references to services provided in accordance with arrangements under section 41 of the 1946 Act

- (1) The services for the testing of sight and the supply of optical appliances which are provided in accordance with arrangements made under section 41 of the 1946 Act by Executive Councils shall, instead of being referred to in that Act as supplementary ophthalmic services, be so referred to as general ophthalmic services, and, accordingly, for the words " supplementary ophthalmic services" in that Act (wherever they occur) and in section 1(4) of the National Health Service Act 1951, there shall be substituted the words " general ophthalmic services ".
- (2) This section does not apply to Scotland.

18 Provision of ophthalmic services by Executive Councils in England and Wales to be on permanent basis, and facilities for provision thereof to be available at health centres

- (1) The power of the Minister under section 41(4) of the 1946 Act to direct that that section shall cease to apply to an area shall cease to be exercisable, and the functions under that section of Executive Councils shall cease to be exercised on their behalf by Ophthalmic Services Committees (which shall, accordingly, be dissolved).
- (2) Section 43 of the 1946 Act (which enables the Minister to remedy inadequacies in services provided under arrangements in force under Part IV of that Act) shall have effect as if, after paragraph (c) of that section, there were inserted the following:—

“or

(d) of persons undertaking to provide general ophthalmic services;”
and as if the word " or ", where occurring immediately before paragraph (c), were omitted.

- (3) Section 21 of the 1946 Act (duty of local health authorities to provide, maintain and equip health centres at which facilities for various purposes shall be available) shall be amended as follows:—

- (a) in subsection (1), after paragraph (c), there shall be inserted the following paragraph:—

“(ca) for the provision of general ophthalmic services under Part IV of this Act by medical practitioners having the qualifications prescribed for the purposes of section forty-one of this Act, ophthalmic opticians and dispensing opticians and, on such terms and conditions as may be determined by the Minister, for the provision by persons of each of the descriptions aforesaid of such (if any) other ophthalmic services as may, in the case of a particular health centre, be so determined in relation to persons of that description”;

- (b) in subsection (2), at the end of the proviso (which prohibits local health authorities from employing medical or dental practitioners at health centres for the purpose of providing general medical services or general dental services under Part IV of the Act) there shall be added the words " nor shall they employ medical practitioners or opticians at such centres for the purpose of providing general ophthalmic services under the said Part IV ";

and in section 41(1) of that Act, after the word "testing" and after the word " supply", there shall be inserted the words " whether at a health centre or otherwise ".

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- (4) This section does not apply to Scotland.

19 General ophthalmic services in Scotland

- (1) The services to be provided in accordance with the arrangements mentioned in section 42 of the 1947 Act shall, instead of being referred to in that Act as supplementary ophthalmic services, be so referred to as general ophthalmic services, and, accordingly, for the words "supplementary ophthalmic services" in that Act (wherever they occur) and in section 1(4) of the National Health Service Act 1951 there shall be substituted the words " general ophthalmic services " .
- (2) Subsections (2) and (4) of the said section 42 shall cease to have effect; and the said section shall have effect as if, after subsection (1) thereof, there were inserted the following subsections :—
- “(2) Provision shall be made by regulations for the delegation by each Executive Council of such of their functions under this section as may be prescribed to a committee, constituted in the prescribed manner so as to include members appointed by that Council, by medical practitioners having the prescribed qualifications, by ophthalmic opticians and by dispensing opticians, for the areas of that Council and of such other Executive Council or Executive Councils as may be specified in the regulations; and any committee constituted under this subsection shall be known as a Joint Ophthalmic Services Committee.
- (2A) Regulations constituting a Joint Ophthalmic Services Committee under subsection (2) above may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including provision for the payment of the expenses of the Committee by the constituent Councils thereof; for the application, with such modifications as may be prescribed, to the Committee of any provision of this Act relating to ophthalmic services; for any of the matters for which, in relation to an Executive Council, provision is or may be made by or under the supplementary provisions of the Sixth Schedule to this Act; and for the transfer of officers and their compensation by the Secretary of State, and the transfer of property and liabilities”.
- (3) Section 43 of the 1947 Act (disqualification of persons providing services under Part IV) shall have effect as if any reference therein to an Executive Council included a reference to a Joint Ophthalmic Services Committee.
- (4) Section 44 of the 1947 Act (powers of Secretary of State where services under Part IV are inadequate) shall have effect as if, after paragraph (c) of that section, there were inserted the following:—
- “or
- (d) of persons undertaking to provide general ophthalmic services”;
- and as if the word " or " , where occurring immediately before the said paragraph (c), were omitted.
- (5) The power to make regulations under the said section 42 shall include power to make regulations providing for the dissolution of any joint committee for ophthalmic services constituted by order under subsection (4) of section 32 of the 1947 Act and (notwithstanding anything in section 73 of that Act, which relates among other

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things to the revocation of orders) any such regulations may revoke any order made under that subsection and relating to ophthalmic services; and references in any order or regulations made under the National Health Service (Scotland) Acts 1947 to 1967 to a Joint Ophthalmic Services Committee constituted by virtue of the said section 32(4) shall (except in provisions relating to the constitution or dissolution of such a committee) be construed as including references to a Joint Ophthalmic Services Committee constituted by virtue of subsection (2) of the said section 42 as amended by this section.

- (6) References in the National Health Service (Scotland) Acts 1947 to 1967, and in any order or regulations made thereunder, to Ophthalmic Services Committees constituted by virtue of subsection (2) of the said section 42 as originally enacted shall be construed as references to Joint Ophthalmic Services Committees constituted by virtue of subsection (2) of the said section 42 as amended by this section.
- (7) Section 15 of the 1947 Act (health centres) shall have effect as if in subsection (1) thereof, after paragraph (c), there were inserted the following paragraph:—
- “(ca) the provision of general ophthalmic services under Part IV of this Act by medical practitioners having the qualifications prescribed for the purposes of section 42 of this Act, ophthalmic opticians and dispensing opticians and, on such terms and conditions as may be determined by the Secretary of State, the provision by persons of each of the descriptions aforesaid of such (if any) other ophthalmic services as may, in the case of a particular health centre, be so determined in relation to persons of that description
- and in section 42(1) of that Act, after the word " testing " and after the word " supply", there shall be inserted the words " whether at a health centre or otherwise ";
- ”

- (8) This section applies to Scotland only.

20 Redefinition of "dispensing optician" and "ophthalmic optician" for purposes of the 1946 and 1947 Acts

- (1) For the definitions, in section 79(1) of the 1946 Act, of " dispensing optician " and " ophthalmic optician ", there shall be substituted respectively the following definitions:

“dispensing optician ' means a person who is registered in the register kept under section 2 of the Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as dispensing opticians;

' ophthalmic optician ' means a person registered in either of the registers kept under section 2 of the Opticians Act 1958 of ophthalmic opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as ophthalmic opticians”.

- (2) This section shall have effect in Scotland as if, for the reference therein to section 79(1) of the 1946 Act, there were substituted a reference to section 80(1) of the 1947 Act.

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21 Additional dental and pharmaceutical services for whose provision facilities can be made available at health centres and prohibition of employment there of registered pharmacists

- (1) At the end of paragraph (b) of subsection (1) of section 21 of the 1946 Act (which includes amongst the purposes for which facilities can be made available at health centres the provision of general dental services under Part IV of the Act by dental practitioners), there shall be added the words " and, on such terms and conditions as may be determined by the Minister, for the provision by dental practitioners, otherwise than as part of general dental services provided under the said Part IV, of such (if any) dental treatment and appliances as may be so determined in the case of a particular health centre ".
- (2) At the end of paragraph (c) of the said subsection (1) (which includes amongst the purposes for which facilities can be made available at health centres the provision of pharmaceutical services under Part IV by registered pharmacists), there shall be added the words " and, on such terms and conditions as may be determined by the Minister, for the provision by registered pharmacists, otherwise than as part of pharmaceutical services provided under the said Part IV, of such (if any) drugs, medicines and appliances and articles (other than as aforesaid) ordinarily supplied by pharmacists as may be so determined in the case of a particular health centre ".
- (3) A local health authority shall not, in the performance of the duty imposed on them by subsection (2) of the said section 21 to provide staff for health centres, employ registered pharmacists at a particular health centre for the purpose of providing pharmaceutical services under the said Part IV, unless they were doing so on the 22nd March 1968 ; and, if they were doing so on that day, they shall not employ registered pharmacists at that centre for that purpose to a number greater than that to which they employed them there for that purpose on that day.
- (4) The foregoing provisions of this section do not apply to Scotland, but section 15(6) of the 1947 Act shall have effect as if the references therein to medical practitioners, general medical services under Part IV of that Act and other personal medical services included—
 - (a) references respectively to dental practitioners, general dental services under the said Part IV and other personal dental services; and
 - (b) references respectively to registered pharmacists, pharmaceutical services under the said Part IV and other personal pharmaceutical services.

22 Use of health centres in England and Wales by practitioners

- (1) For section 46 (use of health centres by practitioners) of the 1946 Act there shall be substituted the following section:—

Where a health centre provides facilities for all or any of the purposes specified in paragraphs (a), (b), (c) and (ca) of subsection (1) of section twenty-one of this Act, it shall, subject to regulations and to any determination under that subsection by the Minister, be made available for the purposes in the case of which the facilities are provided on such terms as may be agreed between the Executive Council and the local health authority providing the centre or, in default of agreement, as may be determined by the Minister; and the Executive Council may, subject to any such determination as aforesaid, make such charges for the use of the centre by the persons who use it for the last-mentioned purposes as the Council think sufficient for the purpose of

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defraying the payments made by them to the local health authority, and may recover those charges from those persons”.

- (2) This section does not apply to Scotland.

23 What drugs are to be made available to recipients of general dental services

- (1) Section 38 of the 1946 Act (which requires every Executive Council to make as respects their area arrangements for the supply, amongst other things, of prescribed drugs and medicines to all persons in the area who are receiving general dental services) shall have effect with the substitution, for references to such drugs and medicines, of references to such drugs and medicines as are included in a list for the time being approved for the purposes of that section by the Minister.
- (2) This section shall have effect in Scotland as if, for the reference therein to section 38 of the 1946 Act, there were substituted a reference to section 40 of the 1947 Act.

24 Power of Executive Councils to supply goods and materials to persons providing certain services

- (1) Arrangements made by an Executive Council as respects their area under any of the following provisions of the 1946 Act, namely, section 33 (general medical services), 38 (pharmaceutical services), 40 (general dental services) and 41 (general ophthalmic services) may include provision for the supply by the Council, with the consent of the Minister and on such terms as he and the Treasury may approve, to medical practitioners providing general medical services in the area, persons providing pharmaceutical services therein, dental practitioners providing general dental services therein and persons providing general ophthalmic services therein, as the case may be, of goods or materials prescribed by regulations made by the Minister, being goods or materials which it appears to him it is necessary or expedient for a person providing any such service as aforesaid to have for the purpose of providing that service.
- (2) This section shall have effect in Scotland as if, for the references to sections 33, 38, 40 and 41 of the 1946 Act, there were substituted respectively references to sections 34, 40, 39 and 42 of the 1947 Act.

25 Disqualification of practitioners and others disqualified in Northern Ireland

- (1) Section 42(6) of the 1946 Act (disqualification for inclusion in lists prepared under Part IV of the 1946 Act and removal therefrom of persons disqualified under provisions in force in Scotland corresponding to provisions of the said Part IV for inclusion in lists prepared under those provisions so in force) shall have effect with the insertion, after the word " Scotland ", of the words " or Northern Ireland ".
- (2) Subsection (6) of section 43 of the 1947 Act (which makes in relation to Scotland provision corresponding to that of the said section 42(6)) shall have effect with the substitution, for the words from the beginning of the subsection to the words " under that Part of that Act ",
of the words " If under any provisions in force in England and Wales or Northern Ireland corresponding to the provisions of this Part of this Act a person is for the time being disqualified for inclusion in all lists prepared under those provisions ", and the insertion, after the words " subsection (1) of this section ", of the words " that person ".

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26 Inquiries in connection with removals of disqualifications of practitioners and others

- (1) For the purpose of deciding whether or not to issue a direction under section 42(5) or (8) of the 1946 Act that a person shall not be disqualified for inclusion in a list prepared under Part IV of that Act, the Tribunal constituted in accordance with Schedule 7 to that Act or the Minister, as the case may be, may hold an inquiry, and paragraph (a) of subsection (7) of that section (which specifies matters with respect to which regulations may be made under that subsection) shall have effect as if—
 - (a) references to that section included references to this section;
 - (b) the first two references to the Tribunal included references to the Minister; and
 - (c) for the reference to the case of an appeal, there were substituted a reference to the case of an inquiry by, or appeal to, the Minister.
- (2) This section shall have effect in Scotland as if, for the references therein to any provision of section 42 and Part IV of, and Schedule 7 to, the 1946 Act, there were substituted references respectively to the corresponding provision of section 43 and Part IV of, and Schedule 8 to, the 1947 Act.