



# National Health Service Act 1977

## 1977 CHAPTER 49

### PART II

#### GENERAL MEDICAL, GENERAL DENTAL, GENERAL OPHTHALMIC, AND PHARMACEUTICAL SERVICES

##### *General medical services*

#### **29 Arrangements and regulations for general medical services**

- (1) It is every Area Health Authority's duty, in accordance with regulations, to arrange as respects their area with medical practitioners to provide personal medical services for all persons in the area who wish to take advantage of the arrangements.

The services so provided are in this Act referred to as " general medical services ".

- (2) Regulations may provide for the definition of the personal medical services to be provided and for securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance, and the regulations shall include provision—
- (a) for the preparation and publication of lists of medical practitioners who undertake to provide general medical services;
  - (b) for conferring a right on any person to choose, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to the consent of the practitioner so chosen and to any prescribed limit on the number of patients to be accepted by any practitioner;
  - (c) for the distribution among medical practitioners whose names are on the lists of any persons who have indicated a wish to obtain general medical services but who have not made any choice of medical practitioner or have been refused by the practitioner chosen ;
  - (d) for the issue to patients or their personal representatives by medical practitioners providing those services of such certificates as may be prescribed being certificates reasonably required by them under or for the purposes of any enactment;

- (e) for the removal from the list of medical practitioners undertaking to provide general medical services for persons in any area of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general medical services for persons in that area.
- (3) Regulations under subsection (2) above may provide for the personal medical services there mentioned to include the provision of, and services connected with, any such advice, examination and treatment as are mentioned in paragraph (b) of section 5(1) above.
- (4) The remuneration to be paid under the arrangements mentioned in subsection (1) above to a practitioner who provides general medical services shall not, except in special circumstances, consist wholly or mainly of a fixed salary which has no reference to the number of patients for whom he has undertaken to provide such services.

### **30 Applications to provide general medical services**

- (1) All applications made in the prescribed manner to an Area Health Authority for inclusion in a list kept by that Authority of the names of medical practitioners undertaking to provide general medical services for persons in the Authority's area shall be referred by the Authority to the Medical Practices Committee and (except as mentioned in subsection (2) below) any medical practitioner whose application is granted by that Committee shall be entitled to the inclusion of his name in the list.
- (2) That entitlement is subject to—
  - (a) if the Secretary of State should so prescribe, section 31 below ;
  - (b) section 33 below (distribution of general medical services);
  - (c) section 46 below (disqualification of practitioners).

### **31 Requirement of suitable experience**

- (1) Where the Secretary of State so prescribes, and after a day so prescribed—
  - (a) the Medical Practices Committee shall refuse any application under section 30 above if the medical practitioner is not suitably experienced; and
  - (b) an Area Health Authority shall not arrange under section 29 above with a medical practitioner for him to provide general medical services for persons in its area unless the Medical Practices Committee have granted an application by him for the inclusion of his name in the list kept by the Authority of medical practitioners undertaking to provide general medical services for persons in that area.
- (2) For the purposes of this section a medical practitioner is " suitably experienced " if, but only if, he either—
  - (a) has acquired the prescribed medical experience, or
  - (b) is by virtue of regulations made under section 32 below exempt from the need to have acquired that experience,
 and " medical experience " includes hospital experience in any specialty.

## **32 Regulations as to s. 31**

- (1) Regulations may for the purposes of section 31 above provide—
- (a) for prescribing the medical experience needed to satisfy paragraph (a) of section 31(2);
  - (b) as to the documents which an applicant may or must produce as evidence that he is suitably experienced or has acquired medical experience of any particular kind;
  - (c) for requiring an applicant who claims to have acquired the prescribed experience to submit particulars of his experience to a prescribed body, and for requiring that body, if satisfied that he has acquired the prescribed experience, to issue him a certificate (a "certificate of prescribed experience") to that effect;
  - (d) for enabling an applicant without the prescribed experience who considers that the medical experience which he has acquired is, or ought to be regarded as, equivalent to the prescribed experience to submit particulars of that experience to a prescribed body, and for requiring or enabling that body, if satisfied that the applicant's medical experience is so equivalent, to issue him a certificate (a "certificate of equivalent experience") to that effect;
  - (e) for treating an applicant who holds a certificate of equivalent experience as satisfying paragraph (a) of section 31(2);
  - (f) as to the circumstances or conditions in or subject to which a medical practitioner is exempt from the need to have acquired the prescribed experience;
  - (g) for conferring on an applicant who is refused a certificate of prescribed experience or a certificate of equivalent experience a right of appeal to a body constituted by the Secretary of State, and for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right;
  - (h) for anything authorised or required by section 31 to be prescribed or otherwise provided for by regulations.

In this section—

"applicant" means a medical practitioner who has made or proposes to make an application to which paragraph (a) of section 31(1) applies;

"the prescribed experience" means the medical experience for the time being prescribed for the purposes of paragraph (a) of section 31 (2).

- (2) Regulations under this section shall be framed so as to allow the prescribed experience to be acquired without undertaking whole-time employment.
- (3) Any power under this section to make regulations—
- (a) may be exercised so as to make different provision for different areas or different periods of time or in relation to different cases or different circumstances;
  - (b) includes power to make such incidental or supplemental provision in the regulations as the Secretary of State considers appropriate.

## **33 Distribution of general medical services**

- (1) The Medical Practices Committee may refuse any application under section 30 above on the ground that the number of medical practitioners undertaking to provide general

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*Status: This is the original version (as it was originally enacted).*

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medical services in the area of the Area Health Authority concerned or in part of that area is already adequate.

- (2) If in the opinion of the Medical Practices Committee additional practitioners are required for any area or part, but the number of applications exceeds the number required, the Committee shall select the persons whose applications are to be granted and shall refuse the other applications.
- (3) Before selecting any persons under subsection (2) above the Medical Practices Committee shall consult the Area Health Authority concerned, and that Authority shall, if a local medical committee has been formed for that Authority's area and recognised under section 44 below, consult that local medical committee before expressing their views on the persons to be selected.
- (4) Except as provided in subsections (1) to (3) above, or as required by section 31 above, the Medical Practices Committee shall not refuse any application under section 30, but the Committee may grant an application subject to conditions excluding the provision of general medical services by the applicant in such part or parts of the area of the Area Health Authority as the Committee may specify.
- (5) A medical practitioner who has made an application under section 30 which has been refused or has been granted subject to such conditions may appeal to the Secretary of State ; and the Secretary of State may, on any such appeal, direct the Medical Practices Committee to grant the application either unconditionally or subject to such conditions as the Secretary of State may specify.

This subsection does not apply where an application has been refused under paragraph (a) of section 31(1).

- (6) Where the Medical Practices Committee select persons from a number of applicants, the persons selected shall not be included in the list in question during the period for bringing an appeal to the Secretary of State or pending the determination of any such appeal.
- (7) If the Secretary of State grants an appeal to which subsection (6) above relates, he may direct either that the application—
  - (a) shall be granted in addition to those already granted; or
  - (b) shall be granted instead of such one of those applications as he may specify.

In the latter case, he shall make the other applicant a party to the appeal, and no further appeal shall be brought by that applicant in respect of the application in question.

- (8) The Medical Practices Committee shall, in a case where persons have to be selected from a number of applicants, and the Secretary of State shall on an appeal in any such case—
  - (a) have regard to any desire expressed by any applicant to practise with other medical practitioners already providing general medical services in the area or part of an area concerned and of any desire expressed by such other practitioners to take any applicant into practice with them;
  - (b) have special regard to such matters in cases where an applicant is related to any other such practitioner.

### **34 Regulations for Medical Practices Committee**

Regulations may make provisions for conferring or imposing on the Medical Practices Committee such additional functions in relation to arrangements for the provision of general medical services as may be prescribed; and regulations shall provide—

- (a) for requiring Area Health Authorities to make to the Medical Practices Committee, at such times and in such manner as may be prescribed, reports as to—
  - (i) the number of medical practitioners required to meet the reasonable needs of their areas and the different parts of those areas ;
  - (ii) the occurrence of any vacancies on the lists of medical practitioners kept by them under this Part of this Act; and
  - (iii) the need for filling such vacancies ; and
- (b) for prescribing the procedure for—
  - (i) the determination of applications by the Medical Practices Committee;
  - (ii) the making and determination of appeals to the Secretary of State under section 33 above ; and
  - (iii) requiring Area Health Authorities and applicants to be informed of the decisions of the Committee and the Secretary of State.

#### *General dental services*

### **35 Arrangements for general dental services**

- (1) It is every Area Health Authority's duty, in accordance with regulations, to make as respects their area arrangements with dental practitioners under which any person in the area for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances shall receive such treatment and appliances.

The services so provided are in this Act referred to as " general dental services ".

- (2) The remuneration to be paid under such arrangements to a dental practitioner who provides general dental services elsewhere than at a health centre shall not consist wholly or mainly of a fixed salary unless either—
  - (a) the remuneration is paid in pursuance of arrangements made under section 56 below, or
  - (b) the services are provided in prescribed circumstances and the practitioner consents,

and it shall be the Secretary of State's duty, before he prescribes any circumstances for the purposes of paragraph (b), to consult such organisations as appear to him to be representative of the dental profession.

### **36 Regulations as to s. 35**

Regulations may provide as to the arrangements to be made under section 35 above, and shall include provision—

- (a) for the preparation and publication of lists of dental practitioners who undertake to provide general dental services;

- (b) for conferring a right, subject to the provisions of this Part of this Act relating to the disqualification of practitioners, on any dental practitioner, who wishes to be included in any such list, to be so included;
- (c) for conferring on any person a right to choose, in accordance with the prescribed procedure, the dental practitioner from whom he is to receive general dental services, subject to the consent of the practitioner so chosen;
- (d) for the removal from the list of dental practitioners undertaking to provide general dental services for persons in any area of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general dental services for persons in that area.

### **37 Dental Estimates Board**

Regulations providing as to the arrangements to be made under section 35 above shall include provision—

- (a) for constituting a Board, to be called the Dental Estimates Board, of whom the chairman and a majority of the members shall be dental practitioners, for the purpose of carrying out such duties as may be prescribed with respect to the approval of estimates of dental treatment and appliances, and to the remuneration of dental practitioners providing general dental services;
- (b) for providing in relation to that Board for any of the matters for which, in relation to an Area Health Authority, provision is or may be made by or under Part III of Schedule 5 to this Act.

#### *General ophthalmic services*

### **38 Arrangements for general ophthalmic services**

It is every Area Health Authority's duty, in accordance with regulations, to arrange as respects their area with medical practitioners having the prescribed qualifications, ophthalmic opticians, and dispensing opticians for securing the testing of sight by such medical practitioners and ophthalmic opticians, and the supply by ophthalmic opticians and dispensing opticians of optical appliances.

The services so provided are in this Act referred to as " general ophthalmic services ".

### **39 Regulations as to s. 38**

Regulations may provide as to the arrangements to be made under section 38 above, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners, ophthalmic opticians and dispensing opticians, respectively, who undertake to provide general ophthalmic services;
- (b) for conferring a right, subject to the provisions of this Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, ophthalmic optician or dispensing optician who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested, or from whom any prescription for the supply of

optical appliances is to be obtained and the ophthalmic or dispensing optician who wishes to supply the appliances;

- (d) for the removal from the list of medical practitioners, ophthalmic opticians or dispensing opticians undertake to provide general ophthalmic services for persons in any area of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general ophthalmic services for persons in that area.

#### **40 Medical practitioners with qualifications prescribed under s. 38**

The power conferred by section 38 above (in relation to general ophthalmic services) to prescribe the qualifications to be possessed by any medical practitioner includes a power—

- (a) to prescribe a requirement that the practitioner shall show to the satisfaction of a committee recognised by the Secretary of State for the purpose that he possesses such qualifications, including qualifications as to experience, as may be mentioned in the regulations; and
- (b) to confer on a person who is dissatisfied with the determination of such a committee, a right of appeal to a committee appointed by the Secretary of State, and to provide for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right.

#### *Pharmaceutical services*

#### **41 Arrangements for pharmaceutical services**

It is every Area Health Authority's duty, in accordance with regulations, to arrange as respects their area for the supply to persons who are in that area of—

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony); and
- (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions. The services so provided are in this Act referred to as " pharmaceutical services ".

In this section—

" listed " means included in a list for the time being approved by the Secretary of State for the purposes of this section; and

" the Scottish health service " and " the Northern Ireland health service " mean respectively the health service established in pursuance of section 1 of the National Health Service (Scotland) Act 1947 or any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.

## **42 Regulations as to s. 41**

Regulations may provide for securing that arrangements made under section 41 above will be such as to enable any person for whom they are ordered as mentioned in that section to receive the drugs, medicines and appliances there mentioned from any person with whom such arrangements have been made ; and the regulations shall include provision—

- (a) for the preparation and publication of lists of persons who undertake to provide pharmaceutical services ;
- (b) for conferring a right, subject to this Part of this Act relating to the disqualification of practitioners, on any person who wishes to be included in any such list to be so included for the purpose of supplying such drugs, medicines and appliances as that person is entitled by law to sell; and
- (c) for the removal from the list of persons undertaking to provide pharmaceutical services for persons in any area of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such pharmaceutical services for persons in that area.

## **43 Persons authorised to provide pharmaceutical services**

- (1) No arrangements shall be made by an Area Health Authority (except as may be provided by regulations) with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services.
- (2) No arrangements for the dispensing of medicines shall be made (except as may be provided by regulations) with persons other than persons who are registered pharmacists, or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 and who undertake that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist.

### *Local representative committees*

## **44 Recognition of local representative committees**

- (1) Where the Secretary of State is satisfied that a committee formed for the area of any Area Health Authority is representative—
  - (a) of the medical practitioners providing general medical services or general ophthalmic services in that area, or
  - (b) of the dental practitioners providing general dental services in that area, or
  - (c) of the ophthalmic opticians and dispensing opticians providing general ophthalmic services in that area, or
  - (d) of the persons providing pharmaceutical services in that area,he may recognise that committee; and any committee so recognised shall be called the Local Medical Committee, the Local Dental Committee, the Local Optical Committee or the Local Pharmaceutical Committee, as the case may be for the area concerned.
- (2) Any such committee may with the Secretary of State's approval delegate any of their functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.



#### **45 Functions of local representative committees**

- (1) The Family Practitioner Committee for the area of an Area Health Authority in respect of which committees are recognised under section 44 above shall, in exercising their functions under this Part of this Act, consult with those committees on such occasions and to such extent as may be prescribed; and those committees shall exercise such other functions as may be prescribed.
- (2) The Family Practitioner Committee may, on the request of any committee recognised under section 44 for their area, allot to that committee such sums for defraying the committee's administrative expenses (including travelling and subsistence allowances payable to its members) as may be determined by the Family Practitioner Committee with the Secretary of State's approval.
- (3) Any sums so allotted shall be out of the moneys available to the Family Practitioner Committee for the remuneration of persons of whom the committee so recognised is representative and who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services, as the case may be, under this Part of this Act.

The amount of any such sums shall be deducted from the remuneration of those persons in such manner as may be determined by the Family Practitioner Committee with the Secretary of State's approval.

#### *Provisions as to disqualification of practitioners*

#### **46 Disqualification of practitioners**

- (1) There shall be a tribunal (in this section and sections 47 to 49 below referred to as "the Tribunal") which shall be constituted in accordance with Schedule 9 to this Act to inquire into cases where representations are made in the prescribed manner to the Tribunal by an Area Health Authority or any other person that the continued inclusion of a person's name in a list prepared under this Part of this Act—
  - (a) of medical practitioners undertaking to provide general medical services,
  - (b) of medical practitioners undertaking to provide general ophthalmic services,
  - (c) of dental practitioners undertaking to provide general dental services,
  - (d) of ophthalmic opticians undertaking to provide general ophthalmic services,
  - (e) of dispensing opticians undertaking to provide general ophthalmic services, or
  - (f) of persons undertaking to provide pharmaceutical services,would be prejudicial to the efficiency of the services in question.

The supplementary provisions contained in Schedule 9 apply in relation to the Tribunal.

- (2) The Tribunal, on receiving representations from an Area Health Authority shall, and in any other case may, inquire into the case, and, if they are of opinion that the continued inclusion of that person's name in any list to which the representations relate would be prejudicial to the efficiency of those services—
  - (a) shall direct that his name be removed from that list; and
  - (b) may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Area Health Authority under this Part.

- (3) An appeal shall lie to the Secretary of State from any direction of the Tribunal under subsection (2) above, and the Secretary of State may confirm or revoke that direction.
- (4) Where the Tribunal direct that the name of any person be removed from or not included in any list or lists the Area Health Authority or Authorities concerned shall—
  - (a) if no appeal is brought, at the end of the period for bringing an appeal, or
  - (b) if an appeal is brought and the decision of the Tribunal is confirmed by the Secretary of State, on receiving notice of the Secretary of State's decision, remove the name of the person concerned from the list or lists in question.

#### **47 Removal of disqualification**

- (1) Any person whose name has been removed by a direction under section 46 above from any list or lists shall be disqualified for inclusion in any list to which that direction relates until the Tribunal or the Secretary of State direct under this section to the contrary.
- (2) For the purpose of deciding whether or not to issue a direction under this section (or under paragraph 8 of Schedule 14 to this Act), the Tribunal or the Secretary of State, as the case may be, may hold an inquiry.

#### **48 Disqualification provisions in Scotland or Northern Ireland**

Where—

- (a) under any provisions in force in Scotland 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 of persons undertaking to provide services of one or more of the kinds specified in section 46(1) above, then
- (b) that person shall, so long as that disqualification is in force, be disqualified for inclusion in a list prepared under this Part of persons undertaking to provide services of those kinds, and the name of that person shall be removed from every such list in which his name is included.

#### **49 Regulations as to ss. 46 to 48**

Regulations shall provide—

- (a) for prescribing the procedure for the holding of inquiries by the Tribunal or the Secretary of State under sections 46 to 48 above, and for the making and determining of appeals to the Secretary of State under that procedure, and, in particular for securing that any person who is the subject of such an inquiry shall have an opportunity—
  - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an inquiry by, or appeal to, the Secretary of State before a person appointed by the Secretary of State, and
  - (ii) of being heard by the Tribunal or the person so appointed and of calling witnesses and producing other evidence on his behalf,and that the hearing, whether by the Tribunal or the person so appointed shall be in public if the person who is the subject of the inquiry so requests ;

- (b) for conferring on the Tribunal and on any person so appointed such powers as the Secretary of State considers necessary, and for that purpose to apply, with any necessary modifications, any of the provisions of section 250 of the Local Government Act 1972 ; and
- (c) for the publication of the decisions of the Tribunal and the Secretary of State under this section and of the imposition and removal of any disqualifications imposed under section 48 above.

*Other provisions supplementary to Part II*

**50 Exercise of choice of practitioner in certain cases**

Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part of this Act is conferred by or under this Part, that right shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.

**51 University clinical teaching and research**

It is the Secretary of State's duty to make available, in premises provided by him by virtue of this Act, such facilities as he considers are reasonably required by any university which has a medical or dental school, in connection with clinical teaching and with research connected with clinical medicine or, as the case may be, clinical dentistry.

**52 Use of accommodation**

If the Secretary of State considers that any accommodation provided by him by virtue of this Act is suitable for use in connection with the provision of general medical services, general dental services, general ophthalmic services or pharmaceutical services he may make the accommodation available on such terms as he thinks fit to persons providing any of those services.

**53 Immunisation**

Where the Secretary of State arranges with medical practitioners for the vaccination or immunisation of persons against disease, he shall so far as reasonably practicable give every medical practitioner providing general medical services an opportunity to participate in the arrangements.

**54 Prohibition of sale of medical practices**

- (1) Where the name of any medical practitioner is or has been at any time entered on any list of medical practitioners undertaking to provide general medical services, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner.

This subsection is subject to subsections (2) and (3) below ; and the additional provisions contained in Schedule 10 to this Act have effect for the purposes of this section.

- (2) Where a medical practitioner, whose name has ceased to be entered on any list of medical practitioners undertaking to provide general medical services, practises in the area of an Area Health Authority (or of an Executive Council, before its abolition under section 14 of the National Health Service Reorganisation Act 1973) on whose list his name has never been entered, subsection (1) above does not render unlawful the sale of the goodwill or any part of the goodwill of his practice in that area.
- (3) Subsection (1) does not prevent the sale of the goodwill or any part of the goodwill of a medical practice carried on in any area, being a sale by a medical practitioner whose name has never been entered on a list of an Area Health Authority (or of an Executive Council, before its abolition) for that area of medical practitioners undertaking to provide general medical services, notwithstanding that any part of the goodwill to be sold is attributable to a practice previously carried on by a person whose name was entered on such a list.

## **55 Decision of disputes**

Any dispute arising under this Part of this Act or any regulation made under this Part between an Area Health Authority and a person receiving, or claiming that he is entitled to receive, any services under this Part shall be referred to and decided by the Secretary of State.

## **56 Inadequate services**

If the Secretary of State is satisfied, after such inquiry as he may think fit, as respects any area or part of an area of an Area Health Authority that the persons whose names are included in any list prepared under this Part of this Act—

- (a) of medical practitioners undertaking to provide general medical services,
- (b) of dental practitioners undertaking to provide general dental services,
- (c) of persons undertaking to provide general ophthalmic services, or
- (d) of persons undertaking to provide pharmaceutical services,

are not such as to secure the adequate provision of the services in question in that area or part, or that for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Part, then—

- (i) he may authorise the Area Health Authority to make such other arrangements as he may approve, or may himself make other arrangements, and
- (ii) he may dispense with any of the requirements of regulations made under this Part so far as appears to him necessary to meet exceptional circumstances and enable such arrangements to be made.