



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART I

#### THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

##### *Further amendments of the principal Act*

#### **22 The Medical Practices Committee**

- (1) Section 7 of the principal Act (the Medical Practices Committee) shall be amended in accordance with this section.
- (2) At the beginning of subsection (1) there shall be inserted “Subject to subsection (1A) below”.
- (3) After subsection (1) there shall be inserted the following subsection—

“(1A) The Secretary of State may by order make such modifications as he considers appropriate of paragraphs (a) and (b) of subsection (1) above.”
- (4) At the end of the section there shall be added the following subsection—

“(4) After consulting the Medical Practices Committee, the Secretary of State may give the Committee directions with respect to the exercise of its functions; and it shall be the duty of the Committee to comply with any such directions.”

#### **23 Distribution of general medical services**

- (1) In section 33 of the principal Act (distribution of general medical services) after subsection (1) there shall be inserted the following subsections—

“(1A) The Secretary of State may by order specify—

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- (a) the maximum number of medical practitioners with whom, in any year, all the Family Health Services Authorities for localities in England, taken as a whole, may enter into arrangements under section 29 above for the provision of general medical services; and
  - (b) the maximum number of medical practitioners with whom, in any year, all the Family Health Services Authorities for localities in Wales, taken as a whole, may enter into such arrangements.
- (1B) An order under subsection (1A) above may contain such incidental and consequential provisions (including provisions amending this Part of this Act) as appear to the Secretary of State to be appropriate including, in particular, provisions as to the basis on which the Medical Practices Committee are to refuse applications under section 30 above in order to secure that any maximum number specified in the order is not exceeded.”
- (2) At the beginning of subsection (2) of that section (the Medical Practices Committee to select the persons whose applications are to be granted) there shall be inserted “Subject to subsection (2A) below” and after that subsection there shall be inserted the following subsection—
- “(2A) If, in the opinion of the Medical Practices Committee, a medical practitioner is required for a particular part of the locality of a Family Health Services Authority, then, in such circumstances as may be prescribed,—
- (a) the Authority (instead of the Committee) shall, in accordance with regulations, select the medical practitioner whose application they wish to be considered by the Committee; and
  - (b) the Committee shall not consider any application from a medical practitioner who is not so selected; and
  - (c) any medical practitioner who has made an application but is not so selected may appeal to the Secretary of State on a point of law;
- and if the Secretary of State allows an appeal under paragraph (c) above he shall remit the application to the Authority for reconsideration.”
- (3) In subsection (4) of that section (applications under section 30 may be granted subject to certain conditions), after the word “but” there shall be inserted—
- “(a) in granting an application shall specify, by reference to one or more prescribed conditions relating to hours or the sharing of work, the provision of general medical services for which the applicant will be entitled to be remunerated; and
  - (b)”;
- and at the end of the subsection there shall be inserted the words “and an order under subsection (1A) above may make provision as to the extent to which account is to be taken under the order of medical practitioners whose ability to carry out remunerated work is limited by virtue of conditions imposed under paragraph (a) above”.
- (4) In subsection (5) of that section (appeals to the Secretary of State) for the words “such conditions” there shall be substituted “conditions under paragraph (a) or paragraph (b) of subsection (4) above” and for the words following “Secretary of State”, in the first place where those words occur, there shall be substituted “on a point of law; and, if the Secretary of State allows such an appeal, he shall remit the application to the Medical Practices Committee for reconsideration”.
- (5) Subsection (7) of that section (directions on a successful appeal) shall be omitted.

- (6) In subsection (8) of that section (matters to be taken into account) for the words from the beginning to “in any such case” there shall be substituted “In any case where medical practitioners have to be selected from a number of applicants, the Medical Practices Committee or, where subsection (2A) above applies, the Family Health Services Authority shall”.
- (7) In section 34 of the principal Act (regulations for Medical Practices Committee)—
- (a) in paragraph (b)(ii) after the words “under section 33 above” there shall be inserted “and where such an appeal is allowed, the reconsideration of any application”; and
  - (b) at the end of the section there shall be added the following subsection—
    - “(2) Regulations under this section may make provision for, and in connection with, the variation of any condition imposed under subsection (4) or subsection (5) of section 33 above, including provision for appeals to the Secretary of State on a point of law”.
- (8) In the case of a medical practitioner who, on the day appointed for the coming into force of this section, is providing general medical services in accordance with arrangements under section 29 of the principal Act, regulations may make transitional provisions by virtue of which those services shall be treated for the purposes of that Act as provided subject to such of the prescribed conditions referred to in section 33(4) (a) of that Act as are determined under the regulations and, accordingly, for enabling any such condition to be varied in accordance with regulations under section 34(2) of that Act.

## **24 Limitations on right to be included on list of dental practitioners**

- (1) Section 36 of the principal Act (regulations as to arrangements for general dental services) shall be amended in accordance with this section.
- (2) In subsection (1)(b) (regulations to include provision conferring a right, subject to certain qualifications, to be entered on a list of dental practitioners providing general dental services) for the words “subsection (2)” there shall be substituted “subsections (2) and (3)”.
- (3) At the end of the section there shall be added the following subsection—
- “(3) Regulations may make the exercise of the right conferred by virtue of paragraph (b) of subsection (1) above subject to any provision made by or under the regulations, and, in such cases as may be prescribed, may confer a right of appeal to a prescribed body in respect of a refusal to include a dental practitioner on such a list as is referred to in paragraph (a) of that subsection.”

## **25 Transfer to DHA of certain functions relating to private patients**

- (1) Section 65 of the principal Act (accommodation and services for private patients) shall be amended in accordance with this section.
- (2) In subsection (1) (power of Secretary of State to authorise accommodation and services at hospitals to be made available for private patients etc.)—
- (a) for the words from the beginning to “as he may determine”, in the first place where those words occur, there shall be substituted “Subject to the provisions of this section, to such extent as they may determine, a District or Special

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Health Authority may make available at a hospital or hospitals for which they have responsibility accommodation and services”;

- (b) for any subsequent reference to the Secretary of State in the words preceding paragraph (a) there shall be substituted a reference to the District Health Authority or Special Health Authority, as the case may require; and
- (c) in paragraph (a) for the words “him of any duty imposed on him by” there shall be substituted “the Authority of any function conferred on the Authority under”;

(3) After subsection (1) there shall be inserted the following subsection—

“(1A) Before determining to make any accommodation or services available as mentioned in subsection (1) above, a District or Special Health Authority shall consult organisations representative of the interests of persons likely to be affected by the determination.”

(4) In subsection (2)—

- (a) for the words “The Secretary of State” there shall be substituted “A District or Special Health Authority”; and
- (b) for the words from “to which an authorisation” to “made available” there shall be substituted “which are made available under subsection (1) above to be so made available”.

(5) For subsection (3) of that section there shall be substituted the following subsection—

“(3) The Secretary of State may give directions to a District or Special Health Authority in relation to the exercise of its functions under this section; and it shall be the duty of an authority to whom directions are so given to comply with them.”