



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART II

THE NATIONAL HEALTH SERVICE: SCOTLAND

Fund-holding practices

34 Fund-holding practices

After section 87 of the 1978 Act there shall be inserted the following sections—

“Fund-holding practices

87A Recognition of fund-holding practices of doctors

- (1) Any one or more medical practitioners who are providing general medical services in accordance with arrangements under section 19 may apply to the relevant Health Board for recognition as a fund-holding practice.
- (2) The relevant Health Board shall not grant recognition as a fund-holding practice unless the medical practitioner or, as the case may be, each of the medical practitioners concerned fulfils such conditions as may be prescribed.
- (3) Where two or more medical practitioners who wish to make an application under subsection (1) are not partners in a single partnership, section 19(8) (a) (construction of “relevant Health Board”) shall apply as if the medical practitioners were practising in a single partnership.
- (4) Regulations may make provision with respect to—
 - (a) the making of applications under subsection (1);
 - (b) the granting and refusal of recognition as a fund-holding practice;

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- (c) the conditions to be fulfilled for obtaining and continuing to be entitled to such recognition;
 - (d) appeals against any refusal of such recognition by a Health Board;
 - (e) withdrawing from, or becoming a member of, an existing recognised fund-holding practice;
 - (f) the continuity or otherwise of a recognised fund-holding practice in the event of the death or withdrawal of a member or the addition of a new member; and
 - (g) the operation of this section in a case where one or more of the medical practitioners wishing to make an application under subsection (1) is also on the medical list of a Family Health Services Authority established under section 10 of the National Health Service Act 1977,
- and regulations making the provision referred to in paragraph (g) may make such modifications of the preceding provisions of this section as the Secretary of State considers appropriate.

87B Payments to recognised fund-holding practices

- (1) In respect of each financial year, every Health Board shall be liable to pay to the members of each recognised fund-holding practice in relation to which it is the relevant Health Board a sum determined in such manner and by reference to such factors as the Secretary of State may direct (in this section referred to as an “allotted sum”).
- (2) The liability to pay an allotted sum under subsection (1) may be discharged, in whole or in part, in either of the following ways—
 - (a) by making payments on account of the allotted sum at such times and in such manner as the Secretary of State may direct; and
 - (b) by discharging liabilities of the members of the practice to any other person (including, in particular, liabilities under NHS contracts);

and any reference in this section and section 87C to payment of or of a part of an allotted sum includes a reference to the discharge, in accordance with this subsection, of the whole or part of the liability to pay that sum.
- (3) In any case where—
 - (a) a Health Board makes a payment of, or of any part of, an allotted sum to the members of a recognised fund-holding practice, and
 - (b) some of the individuals on the lists of patients of any of the members of the practice reside in the area of another Health Board, or in the region of a Regional Health Authority established under section 8 of the National Health Service Act 1977,

the Board making the payment shall be entitled to recover from that other Board or the Authority an amount equal to such portion of the payment as may be determined in accordance with directions given by the Secretary of State.
- (4) The members of a recognised fund-holding practice may apply allotted sums only for purposes specified in regulations under subsection (5).
- (5) Regulations shall make provision with respect to the purposes for which allotted sums are to be or may be applied and may make provision generally with respect to the operation of recognised fund-holding practices in relation to allotted sums; and the regulations may, in particular,—

- (a) require the members of a practice to pay to the relevant Health Board out of allotted sums paid to them an amount determined in accordance with the regulations as the basic cost of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice;
 - (b) provide that the goods and services, other than general medical services, which may be purchased by or on behalf of the members of such a practice out of allotted sums for the individuals on the lists of patients of the members of the practice shall be such as may be specified in a list approved for the purpose under the regulations; and
 - (c) impose a limit on the amount which may be spent out of an allotted sum on the provision of goods and services for any one individual, being a limit above which the cost of any goods and services for that individual in the financial year in question will fall to be met by the Health Board whose functions include the provision of goods and services (not necessarily the goods and services in question) to the individual concerned.
- (6) In accordance with directions given by the Secretary of State, the relevant Health Board shall monitor the expenditure of the members of a recognised fund-holding practice and may institute an audit and review in any case where the Board consider it necessary to do so.

87C Renunciation and removal of recognition as a fund-holding practice and withholding of funds

- (1) Regulations may make provision as to the circumstances in which the members of a recognised fund-holding practice may renounce that status and such regulations may, in particular, make provision as to—
- (a) the notice to be given and the number of members of the practice by whom it is to be given;
 - (b) the procedure to be followed; and
 - (c) the consequences of such a renunciation.
- (2) Regulations may make provision as to the circumstances in which and the grounds on which the relevant Health Board may remove recognition from the members of a fund-holding practice,—
- (a) with immediate effect; or
 - (b) with effect from the end of a particular financial year; or
 - (c) with effect from such other date as may be specified by the Health Board.
- (3) Where provision is made as mentioned in subsection (2), regulations shall make provision with respect to—
- (a) the procedure for removal of recognition;
 - (b) appeals against the removal of recognition by a Health Board; and
 - (c) the consequences of the removal of recognition.
- (4) Without prejudice to the generality of the powers conferred by subsection (3), regulations making provision as mentioned in paragraph (c) of that subsection may—

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- (a) provide for the transfer of rights and obligations from the members of the fund-holding practice to one or more Health Boards determined in accordance with the regulations;
 - (b) provide for the recovery of sums from members of the practice; and
 - (c) require the members of the practice to furnish such information as may reasonably be required by the Health Board.
- (5) The bringing of an appeal against the removal of recognition by a Health Board shall not be regarded as preserving the recognised status of the members of the fund-holding practice and, accordingly, subject to the outcome of the appeal, the relevant Health Board shall not be required, after the removal takes effect, to make any (or, as the case may be, any further) payment to the members of the practice of any part of the allotted sum for the financial year in question or, as the case may be, to determine and pay any allotted sum for a future financial year.
- (6) Where any part of an allotted sum has been applied by the members of a recognised fund-holding practice (or any one or more of them) for purposes other than those specified in regulations under section 87B(5), regulations may make provision for and in connection with the recovery by the relevant Health Board of an amount equal to that part.
- (7) Where provision is made as mentioned in subsection (6), regulations shall make provision with respect to appeals against the recovery of any amount by a Health Board.”