



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 1

#### NATIONAL HEALTH SERVICE

*General and personal medical services, general dental services,  
general ophthalmic services and pharmaceutical services*

#### **21 Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists**

After section 43 of the 1977 Act there shall be inserted—

#### **“43ZA Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists**

- (1) The Secretary of State may by regulations provide—
  - (a) that if a person is to be included in a list referred to in subsection (3), he is to be subject, while he remains included in the list, to conditions determined by the Health Authority,
  - (b) for the Health Authority to vary that person's terms of service for the purpose of or in connection with the imposition of any such conditions,
  - (c) for the Health Authority to vary the conditions or impose different ones,
  - (d) for the consequences of failing to comply with a condition (including removal from the list), and
  - (e) for the review by the Health Authority of any decision made by virtue of the regulations.
- (2) The imposition of conditions must be with a view to—
  - (a) preventing any prejudice to the efficiency of the services in question, or
  - (b) preventing any acts or omissions within section 49F(3)(a) below.
- (3) The lists in question are—
  - (a) a list of persons undertaking to provide general medical services,

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*Changes to legislation:* There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Social Care Act 2001. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

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- (b) a list of persons undertaking to provide general dental services,
  - (c) a list of persons undertaking to provide general ophthalmic services,
  - (d) a list of persons undertaking to provide pharmaceutical services.
- (4) If regulations provide for a practitioner’s removal from the list for breach of condition—
- (a) the regulations may provide that he may not withdraw from the list while the Health Authority are investigating whether there are grounds for exercising their power to remove him, or after the Health Authority have decided to remove him but before they have given effect to that decision; and
  - (b) the regulations must include provision—
    - (i) requiring the practitioner to be given notice of any allegation against him,
    - (ii) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his removal from the list, and
    - (iii) requiring him to be given notice of the Health Authority’s decision and the reasons for it and of his right of appeal under subsection (5).
- (5) If regulations provide as mentioned in subsection (1), they must also provide for an appeal by the person in question to the FHSAA against the Health Authority’s decision—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to vary his terms of service,
  - (d) on any review of an earlier such decision of theirs,
  - (e) to remove him from the list for breach of condition,
- and the appeal shall be by way of redetermination of the Health Authority’s decision.
- (6) The regulations may provide for any such decision not to have effect until the determination by the FHSAA of any appeal against it, and must so provide in relation to a decision referred to in subsection (5)(e).
- (7) Regulations under this section may provide for the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about persons whose inclusion in the lists referred to in subsection (3) is subject to conditions imposed under this section, and about the removal of such persons from such lists for breach of condition.”

**Annotations:**

**Commencement Information**

- II** S. 21 wholly in force at 1.7.2002; s. 21 not in force at Royal Assent, see s. 70(2); s. 21 in force for E. at 22.11.2001 by S.I. 2001/3738, arts. 1(3), 2(1), Sch. 1 Pt. I; s. 21 in force for W. at 1.7.2002, {art. 2(1)}, Sch. Pt. 1

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#### Changes and effects yet to be applied to :

- s. 21 repealed by 2006 c. 43 Sch. 4

#### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act extended in part (Isles of Scilly) (with modifications) by S.I. 2003/49 art. 2
- Act extended in part (Isles of Scilly) (with modifications) by S.I. 2003/761 art. 2(2)(a)
- Act extended in part (Isles of Scilly) (with modifications) by S.I. 2004/1425 art. 2

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 11(2)(d) inserted by 2003 c. 43 s. 30
- s. 41(2A) inserted by S.I. 2006/1407 Sch. 1 Pt. 2 para. 7
- s. 55(2A) inserted by S.I. 2015/914 Sch. para. 64(2)
- s. 55(2B) inserted by S.I. 2016/413 reg. 183(a)
- s. 57(1A)-(1C) inserted by 2008 c. 14 s. 146(2)
- s. 57(2A)(2B) inserted by S.I. 2015/914 Sch. para. 65(4)
- s. 57(2A) words omitted by S.I. 2016/413 reg. 185(c)
- s. 57(2B) words substituted by S.I. 2016/413 reg. 185(d)
- s. 57(3)(j)-(l) inserted by 2008 c. 14 s. 146(3)(d)
- s. 57(5A)-(5C) inserted by 2008 c. 14 s. 146(6)
- s. 57(7A) inserted by 2008 c. 14 s. 146(7)
- s. 57(7B) inserted by 2010 nawm 2 s. 16(2)
- s. 57(7B) omitted by S.I. 2016/413 reg. 185(f)
- s. 64(4A) inserted by 2008 c. 14 s. 146(8)
- Sch. 1 para. 11(a) modified by S.I. 2004/865 art. 109(2)(g)
- Sch. 1 para. 11(a) substituted by 2006 c. 28 Sch. 8 para. 46

#### Commencement Orders yet to be applied to the Health and Social Care Act 2001

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/713 art. 2 commences (2001 c. 15)
- S.I. 2003/850 art. 2 3 commences (2001 c. 15)
- S.I. 2003/2246 art. 2 commences (2002 c. 17)
- S.I. 2004/288 art. 2-6 commences (2003 c. 43)
- S.I. 2004/480 art. 2-5 commences (2003 c. 43)
- S.I. 2004/759 art. 2-13 commences (2003 c. 43)
- S.I. 2004/1009 art. 2 commences (2003 c. 43)
- S.I. 2004/1019 art. 2 commences (2003 c. 43)
- S.I. 2005/2925 art. 2 4-11 commences (2003 c. 43)
- S.I. 2006/345 art. 2-7 commences (2003 c. 43)
- S.I. 2006/378 art. 2-7 Sch. commences (2005 c. 15)
- S.I. 2006/1407 Sch. 1 Pt. 2 para. 12 13 commences (2002 c. 17 and 2003 c. 43)
- S.I. 2008/1972 art. 2 commences (2006 c. 28)
- S.I. 2008/2497 art. 2-7 commences (2008 c. 14)
- S.I. 2009/462 art. 2-5 Sch. 1 commences (2008 c. 14)
- S.I. 2009/631 art. 2 commences (2008 c. 14)
- S.I. 2009/2567 art. 2 3 commences (2008 c. 14)
- S.I. 2011/849 art. 2 commences (2010 nawm 2)

– [S.I. 2011/986 art. 2 3 commences \(2008 c. 14\)](#)