



National Health Service (Amendment) Act 1949

1949 CHAPTER 93

PART II

MISCELLANEOUS AND GENERAL

10 Prohibition of full-time salaried practitioner service.

Subsection (1) of section thirty-three of the Act of 1946, and subsection (1) of section thirty-four of the Act of 1947, (which require Executive Councils to make arrangements in accordance with regulations for the provision of general medical services by medical practitioners) shall be amended by the addition at the end of each of those subsections of the following proviso:—

“Provided that the remuneration to be paid under such arrangements 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.”

11 Prohibition of full-time salaried dental practitioner service.

Subsection (1) of section forty of the Act of 1946 and subsection (1) of section thirty-nine of the Act of 1947 (which require Executive Councils to make arrangements in accordance with regulations for the provision of general dental services by dental practitioners) shall be amended by the addition at the end of each of those subsections of the following proviso:—

“Provided that 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, except in special circumstances, consist wholly or mainly of a fixed salary.”

12 Regulations not to require specialists to be employed whole-time.

Section sixty-six of the Act of 1946 and section sixty-five of the Act of 1947 (which enable provision to be made by regulations with respect to the conditions of service of officers employed by bodies constituted under those Acts) shall be amended by the addition at the end of each of those sections of the following proviso:—

“Provided that regulations made under this section shall not contain any requirement that all specialists employed for the purpose of hospital and specialist services shall be employed whole-time.”

13 Reference of disputes as to conditions of service of persons employed or engaged in health services.

- (1) Any difference or dispute arising with respect to the remuneration or conditions of service of persons employed or engaged in the provision of services under either the Act of 1946 or the Act of 1947, shall be deemed to be—
 - (a) a difference or dispute to which the Conciliation Act, 1896, applies; and
 - (b) a trade dispute within the meaning of the Industrial Courts Act, 1919.
- (2) The power of the Minister of Labour and National Service under paragraphs (b) and (c) of subsection (2) of section two of the said Industrial Courts Act, 1919, to refer matters for settlement to the arbitration of one or more persons appointed by him or to a board of arbitration constituted in the manner specified in the said paragraph (c) shall be deemed, in the case of any such difference or dispute as aforesaid, to include power to refer the matter for advice to one or more persons appointed by him or to such a board of arbitration, and subsection (3) of section three of the said Act (which excludes the Arbitration Act, 1889, in relation to the references therein mentioned) shall extend to any reference made by virtue of this subsection.

14 Removal from lists of persons who do not provide services.

- (1) Subsection (2) of section thirty-three of the Act of 1946 and subsection (2) of section thirty-four of the Act of 1947 (which enable regulations to be made with respect to the provision of general medical services) shall be amended by the addition at the end of each of those subsections of the following paragraph—
 - “(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 a medical practitioner in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide general medical services for persons in that area.”
- (2) Subsection (2) of section thirty-eight of the Act of 1946 and subsection (2) of section forty of the Act of 1947 (which enable regulations to be made with respect to the provision of pharmaceutical services) shall be amended by the addition at the end of each of those subsections of the words “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 person 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 services for persons in that area.”

- (3) Subsection (2) of section forty of the Act of 1946 and subsection (2) of section thirty-nine of the Act of 1947 (which enable regulations to be made with respect to the provision of general dental services) shall be amended by the addition at the end of each of those subsections of the following paragraph—

“(f) for the removal from the list of dental practitioners undertaking to provide general dental services for persons in any area of the name of a dental practitioner in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide general dental services for persons in that area.”

- (4) Subsection (3) of section forty-one of the Act of 1946 and subsection (3) of section forty-two of the Act of 1947 (which enable regulations to be made with respect to the provision of supplementary ophthalmic services) shall be amended by the addition at the end of each of those subsections of the following paragraph—

“(d) for the removal from the list of medical practitioners, ophthalmic opticians or dispensing opticians undertaking to provide supplementary ophthalmic services for persons in any area of the name of a medical practitioner, ophthalmic optician or dispensing optician, as the case may be, in whose case it has been determined in such manner as may be prescribed that he has never provided or has ceased to provide supplementary ophthalmic services for persons in that area.”

15 Additional functions of Medical Practices Committee

Regulations made under section thirty-four of the Act of 1946 and regulations made under section thirty-five of the Act of 1947 may confer or impose on the Medical Practices Committee or, as the case may be, the Scottish Medical Practices Committee such additional functions in relation to arrangements for the provision of general medical services as may be prescribed.

16 Recovery of charges in respect of pharmaceutical services.

Section thirty-eight of the Act of 1946 and section forty of the Act of 1947 (which provide for the making of arrangements for pharmaceutical services) shall be amended by the addition at the end of each of those sections of the following subsection:—

“(3) Regulations may provide for the making and recovery, in such manner as may be prescribed, of such charges, in respect of such pharmaceutical services, as may be prescribed, and may provide for the remission or repayment of the charges in the case of such persons as may be prescribed.”

17 Recovery of charges from persons resident outside Great Britain.

- (1) The powers of the Minister to make regulations under the Act of 1946 shall, notwithstanding anything in section one of that Act, include power to make regulations providing for the making and recovery, in such manner as may be prescribed, of such charges, in respect of such services provided under the Act of 1946, as may be prescribed, being services provided in respect of such persons not ordinarily resident in Great Britain as may be prescribed; and such regulations may provide that the charges are only to be made in such cases as may be determined in accordance with the regulations.

- (2) This section shall apply to Scotland with the substitution for the reference to the Minister of a reference to the Secretary of State and for the references to the Act of 1946 of references to the Act of 1947.

18 Superannuation of officers of certain hospitals.

- (1) The Minister may enter into an agreement with the governing body of any hospital to which this section applies for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the superannuation benefits provided under regulations made under subsection (1) of section sixty-seven of the Act of 1946, in like manner as officers of Regional Hospital Boards, and the said regulations shall apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.
- (2) The terms and conditions on which such officers may be admitted to participate in the superannuation benefits aforesaid shall be designed to secure that the aggregate payments made by the governing body of the hospital and by the officers are equivalent to the sums paid out of moneys provided by Parliament in respect of the superannuation benefits provided for the officers.
- (3) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in the superannuation benefits aforesaid.
- (4) This section applies to any hospital (not vested in the Minister) which is used, in pursuance of arrangements made by the governing body of the hospital with a Regional Hospital Board, for the provision of hospital and specialist services.
- (5) This section shall apply to Scotland with the substitution for the references to the Minister of references to the Secretary of State, and for the reference to section sixty-seven of the Act of 1946 of a reference to section sixty-six of the Act of 1947.

19 Superannuation of certain officers of Government departments and of officers undertaking approved service.

- (1) The Minister may direct that regulations made under subsection (1) of section sixty-seven of the Act of 1946 shall, subject to such modifications as may be provided in the direction, apply to such classes of officers as may be specified in the direction, being officers of a Government department serving on the medical or nursing staff of that department or at or for the purposes of a hospital maintained by that department, as if their employment were employment entitling them to participate in superannuation benefits provided under paragraph (a) of that subsection, and in that event the said regulations shall apply accordingly.
- (2) The Minister may direct that regulations made under subsection (1) of section sixty-seven of the Act of 1946 shall, subject to such modifications as may be provided in the direction, apply to any such officer as is mentioned in paragraph (a) of that subsection who within twelve months after leaving his employment as such an officer enters such other employment as may be approved by the Minister for the purposes of this section, as if the employment so approved were employment entitling him to

participate in superannuation benefits provided under that paragraph, and in that event the said regulations shall apply accordingly.

- (3) This section shall apply to Scotland with the substitution for the references to the Minister of references to the Secretary of State and for the references to section sixty-seven of the Act of 1946 of references to section sixty-six of the Act of 1947.

20 Appointment of practitioner members of Tribunal.

- (1) The Seventh Schedule to the Act of 1946 (which relates to the constitution of the Tribunal established for the purpose of inquiring into cases that may involve the removal of any person from a list prepared under Part IV of the Act) shall have effect with the substitution for paragraphs 4 and 5 of that Schedule of the following paragraphs—

“4 The remaining member (hereinafter referred to as ' the practitioner member') shall be appointed by the Minister from such one of the panels appointed as hereinafter provided as the Minister considers appropriate having regard to the profession or calling of the person whose case is being investigated.

For the purposes of this paragraph, the Minister shall, after consultation with such organisations as the Minister may recognise as representative of the several professions or callings concerned, appoint the following panels, none of which shall exceed six persons, that is to say—

- (a) a panel of medical practitioners;
- (b) a panel of dental practitioners;
- (c) a panel of registered pharmacists ;
- (d) a panel of medical practitioners having the qualifications prescribed under section forty-one of this Act;
- (e) a panel of ophthalmic opticians ; and
- (f) a panel of dispensing opticians.

5 If any of the members of the Tribunal is unable to act in any case, a deputy may be appointed by the Lord Chancellor or the Minister as in the case of the appointment of the member in question and, if the member is the chairman, the deputy shall possess the professional qualifications required for the office of chairman, and, if the member is the practitioner member, the deputy shall be appointed from the same panel.”

- (2) Nothing in this section shall affect the constitution of the said Tribunal for the purpose of inquiring into any case the inquiry into which has commenced before the passing of this Act.
- (3) This section shall apply to Scotland with the substitution for references to section forty-one of, and to the Seventh Schedule to, the Act of 1946 of references to section forty-two of, and to the Eighth Schedule to, the Act of 1947 and for the expressions " Lord Chancellor " and " Minister ", wherever they occur, of the expressions " Lord President of the Court of Session " and " Secretary of State ", respectively.

21 Removal of doubts as to power to prescribe certain qualifications.

- (1) It is hereby declared for the removal of doubts that any power conferred by the Act of 1946 to prescribe the qualifications to be possessed by any medical practitioner or

ophthalmic or dispensing optician includes a power to prescribe a requirement that the practitioner or optician shall show, to the satisfaction of a committee recognised by the Minister for the purpose or to the satisfaction of the Minister acting on the advice of such a committee, that he "possesses such qualifications, including qualifications as to experience, as may be mentioned in the regulations.

- (2) In the application of this section to Scotland, for references to the Act of 1946 and to the Minister there shall be respectively substituted references to the Act of 1947 and to the Secretary of State.

22 Removal of doubts as to duties of local health authorities in connection with midwifery.

- (1) It is hereby declared for the removal of doubts that the duty of a local health authority under subsection (2) of section twenty-three of the Act of 1946 to secure that the number of certified midwives who are available in the authority's area for attendance on women in their homes as midwives, or as maternity nurses during childbirth and from time to time thereafter during a period not less than the lying-in period as therein defined, is adequate for the needs of the area includes a duty to secure that the midwives so available as aforesaid are enabled to render all services reasonably necessary for the proper care of the women upon whom they so attend.
- (2) It is hereby declared for the removal of doubts that the duty of a local health authority under subsection (2) of section twenty-three of the Act of 1947 to make adequate arrangements for the provision to women, by whom or on whose behalf application was made, of the services in their homes of certified mid-wives before and during childbirth and from time to time thereafter during a period not less than the lying-in period as therein defined, includes a duty to secure that the midwives whose services are so provided are enabled to render all services reasonably necessary for the appropriate care of the women upon whom they so attend.

23 Power of voluntary organisations to transfer property to local health authorities.

- (1) Notwithstanding anything contained in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own homes or of midwives, or in any trust deed or other instrument relating to any such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to a local health authority, on such terms as may be agreed between the authority and the organisation or trustees, with a view to the property being used or held by the authority for purposes similar to the purposes for which it was previously used or held.
- (2) This section shall be deemed to have had effect as from the fifth day of July, nineteen hundred and forty-eight.

24 Cost of conveyance of certain persons under s. 27 of Act.

Where a person has travelled from a place in the area of one local health authority to a hospital in the area of another local health authority for the purpose of attending at, or being accommodated in, that hospital in order to avail himself of any hospital or specialist services and, immediately after such attendance or on the termination of the period of his accommodation in the hospital (not being a period longer than three

months beginning with the date of his admission to the hospital), he is conveyed by ambulance or other means of transport made available by the local health authority for the area in which the hospital is situated, in pursuance of their duty under section twenty-seven of the Act of 1946, from that hospital to the place from which he travelled as aforesaid or to any other place in the area of the local health authority within which the first-mentioned place is situated, the cost of that conveyance shall be repaid by the last-mentioned authority to the local health authority by whom the ambulance or other means of transport was made available as aforesaid:

Provided that any local health authority may agree to waive their rights under this section against any other local health authority, either in consideration of a periodical payment or without consideration.

25 Payment by local health authorities of certain remuneration and expenses to medical practitioners.

(1) Where a medical practitioner—

- (a) carries out a medical examination of any person with a view to an urgency order being made under section eleven of the Lunacy Act, 1890 ;
- (b) is called in by a justice of the peace under section sixteen of the said Act and carries out a medical examination of any person brought before the justice under that section;
- (c) carries out a medical examination of any person with a view to his being placed under section three of the Mental Deficiency Act, 1913, in an institution within the meaning of that Act or sent to such an institution under section six of that Act; or
- (d) carries out a medical examination of any person with a view to his treatment as a voluntary patient under subsection (2) of section one of the Mental Treatment Act, 1930, or his treatment as a temporary patient under section five of that Act;

the local health authority for the area where the person examined resides shall pay to that medical practitioner reasonable remuneration in respect of the said examination and in respect of any certificate or recommendation given by him with regard to the person examined and the amount of any expenses reasonably incurred by him in connection with the examination or the giving of any such certificate or recommendation:

Provided that—

- (a) no payment shall be made under this subsection to a medical practitioner in respect of an examination carried out as part of his duty to provide general medical services for the person examined or in respect of an examination carried out or any certificate or recommendation given as part of his duty as an officer of a Regional Hospital Board or a Board of Governors of a teaching hospital;
- (b) this subsection shall only apply in a case where it is intended, when the medical examination is carried out, that, if an urgency order or a summary reception order is made or the person examined is placed in or sent to such an institution as aforesaid or is treated as a voluntary or temporary patient as aforesaid, the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament under the Act of 1946.

- (2) Section two hundred and eighty-five of the Lunacy Act, 1890 (which provides for the payment of remuneration and expenses to medical practitioners called in under the said section sixteen, if the justice of the peace so orders) shall cease to have effect.

26 Validation of certain orders continuing detention orders made under the Mental Deficiency Act, 1913.

- (1) Where the Board of Control have, before the commencement of this Act, purported to make an order under subsection (2) of section eleven of the Mental Deficiency Act, 1913, providing for the continuance of any detention order, but the Board have failed to make the order within the time limited by the said section eleven, then, unless it is shown that the order purported to have been made under the said subsection (2) was not made in good faith, the detention order purported to have been continued shall be deemed not to have expired and to have been duly continued as if the order purporting to continue it had been made within the required time and otherwise in conformity with the provisions of the said section eleven.
- (2) In this section the expression "detention order" means an order made under the Mental Deficiency Act, 1913, that a defective be sent to an institution for defectives, and the expression "institution for defectives" has the meaning assigned to it by that Act as amended by the Act of 1946.

27 Reception into mental hospital of person under sixteen as voluntary boarder.

A person under sixteen years of age shall not be received as a boarder in a mental hospital under section fifteen of the Lunacy (Scotland) Act, 1866, as amended by section fifty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913, on his own application, but may be so received on an application by his parent or guardian, and the said section as so amended shall, in its application to any such person, have effect subject to the following modifications—

- (a) for any reference to a person desirous of submitting himself to treatment there shall be substituted a reference to a person whose parent or guardian desires to submit him to treatment;
- (b) for any reference to notice by a boarder of intention or desire to leave the mental hospital there shall be substituted a reference to notice by the parent or guardian of the boarder of intention or desire to remove him from the mental hospital; and
- (c) notwithstanding anything in the aforesaid section fifty-nine, no person under the age of sixteen years shall be received into a mental hospital in pursuance of this section except with the previous assent in writing of one of the Commissioners of the General Board of Control for Scotland.

28 Recovery of expenses from in-patients engaged in remunerative employment.

Notwithstanding the provisions of subsection (2) of section one of the Act of 1946, or subsection (2) of section one of the Act of 1947, it shall be lawful, in the case of any person for whom the Minister or, as the case may be, the Secretary of State is providing hospital and specialist services as an in-patient and who is absent during the day from the hospital where he is a patient for the purpose of engaging in employment for which he is remunerated, for the Minister or Secretary of State to require that person to pay such part of the cost of his maintenance in the hospital and any costs

incidental thereto, as may seem to the Minister or Secretary of State reasonable having regard to the amount of the remuneration, and the Minister or Secretary of State may recover the payment so required.

29 Minor amendments and repeal.

- (1) The amendments specified in Part I and Part II of the Schedule to this Act, being amendments of a minor character, shall be made in the Act of 1946 and the Act of 1947, respectively :

Provided that the amendments of the Fifth Schedule to the Act of 1946 and the Sixth Schedule to the Act of 1947 relating to the Chairman of an Executive Council shall, except in a case where the office of such a chairman is vacant at the passing of this Act, only take effect, in relation to each Executive Council, when the appointment of the person holding office as chairman at the date of the passing of this Act comes to an end.

- (2) Subsection (2) of section fourteen of the Midwives Act, 1918, as amended by subsection (2) of section two of the Mid-wives Act, 1926, (which requires a medical practitioner called in to assist a midwife in case of emergency to submit within two months his claim for the payment of a fee by the local health authority) shall be amended by the substitution for the words " two months " of the words " three months."
- (3) Section three of the Cancer Act, 1939 (which empowers the Minister to lend money to the National Radium Trust) shall cease to have effect.
- (4) In the application of subsection (2) of this section to Scotland, for the references to subsection (2) of section fourteen of the Midwives Act, 1918, and to subsection (2) of section two of the Midwives Act, 1926, there shall be respectively substituted references to subsection (2) of section twenty-two of the Midwives (Scotland) Act, 1915, and to subsection (2) of section four of the Midwives (Scotland) Act, 1927.

30 Expenses and receipts.

- (1) There shall be defrayed out of moneys provided by Parliament any increase attributable to the passing of this Act in any grants or sums payable under any other enactment out of moneys so provided.
- (2) All sums received by the Minister or Secretary of State under this Act shall be paid into the Exchequer.

31 Interpretation.

- (1) In this Act—
the expressions " the Act of 1946 " and " the Act of 1947 " have the meanings assigned to them by section one and section nine of this Act respectively ;
the expression " the appointed day" means the day appointed for the purposes of sections thirty-three to thirty-seven of the Act of 1946 and sections thirty-four to thirty-eight of the Act of 1947.
- (2) Other expressions used in this Act shall, in the application of this Act to England and Wales, have the same meanings as in the Act of 1946 and, in the application of this Act to Scotland, have the same meanings as in the Act of 1947.

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

- (3) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by any subsequent enactment including this Act.

32 Short title and extent.

- (1) This Act may be cited as the National Health Service (Amendment) Act, 1949, and this Act, so far as it applies to England and Wales, and the Act of 1946 may be cited together as the National Health Service Acts, 1946 and 1949, and this Act, so far as it applies to Scotland, and the Act of 1947 may be cited together as the National Health Service (Scotland) Acts, 1947 and 1949.
- (2) This Act shall not extend to Northern Ireland.
- (3) Subsection (3) of section eighty of the Act of 1946 (Which provides for the extension of that Act to the Isles of Scilly) shall have effect as if the references to that Act included references to this Act.