

SCHEDULE 12

PART 1

Consequential and transitional provisions relating to lists of practitioners and to local representative committees

Interpretation

1.—(1) In this Schedule—

“the Act” means the National Health Service Act 1977(1);

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(2);

“corresponding list” means a list prepared on or after the relevant date by a Primary Care Trust pursuant to sections 29, 29A, 36, 39, 42, 43 or 43D(3) of the Act, that corresponds to a list of the same type that was maintained pursuant to the same provisions by a Health Authority immediately before the relevant date;

“Health Authority” means a Health Authority established under section 8 of the Act immediately before the relevant date;

“locality” means the locality for which a Health Authority was, or a Primary Care Trust or Strategic Health Authority is, established under the Act; and

“relevant date”, except in Part 4, means 1st October 2002.

(2) In this Part—

“appropriate Primary Care Trust” means the Primary Care Trust on whose corresponding list an existing practitioner is to be included, pursuant to paragraph 2(1);

“existing practitioner” means a person whose name was, immediately before the relevant date, included in an old list;

“old list” means a list maintained by a Health Authority, pursuant to sections 29, 29A, 36, 39, 42, 43 or 43D of the Act before the relevant date; and

“relevant Strategic Health Authority” means the Strategic Health Authority that, on the relevant date, has the same locality as the Health Authority in relation to whose old list, or in relation to the existing practitioner whose name is included in that list, the matter or question to be determined arises.

(1) 1977 c. 49.

(2) 1997 c. 46.

(3) Section 29 was extended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 17; and amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 18, and by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), Schedule 2, paragraph 8. Section 29A was inserted by the 1997 Act, section 32, and amended by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), section 20. Section 36(1) was so numbered by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(1); by the 1988 Act, Schedule 2, paragraph 4; by the 1990 Act, section 24 and by the 1995 Act, Schedule 1, paragraph 25(a). Section 36(3) was inserted by the 1990 Act, section 24(3). Subsections (1A) and (4) to (8) were inserted by the 2001 Act, section 20(4). Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1), extended by the 1988 Act, section 17, and amended by S.I. 1987/2202, article 4; by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 12(3); by the 1995 Act, Schedule 1, paragraph 30; and by the 2001 Act, section 43(2), (3) and (4). Section 43 was amended by the 1980 Act, sections 1 and 21(2) and Schedule 1, paragraph 55; by S.I. 1985/39, article 7(15); by the 1990 Act, Schedule 9, paragraph 18(2); by the 1995 Act, Schedule 1, paragraph 31; by the 1997 Act, section 29(1) and Schedule 2, paragraph 14; and by the 2001 Act, sections 42(2) and 43(5). Section 43D was inserted by the 2001 Act, section 24.

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Allocation of practitioners to lists

2.—(1) Subject to paragraph 3, an existing practitioner shall on the relevant date have his name included in the following lists—

- (a) in the case of an existing practitioner whose name was included in an old list maintained pursuant to sections 29 and 29A of the Act (medical lists), the corresponding list prepared pursuant to those sections by any Primary Care Trust in whose locality there resides a person who is on the existing practitioner's list of patients;
- (b) in the case of an existing practitioner whose name was included in an old list maintained pursuant to section 43D of the Act (supplementary lists), the corresponding list prepared under that section by the Primary Care Trust determined in accordance with paragraph 3;
- (c) in the case of an existing practitioner whose name was included in an old list other than an old list prepared pursuant to the sections specified in sub-paragraph (a) or (b), the corresponding list of any Primary Care Trust in whose locality are located premises at or from which the existing practitioner was, immediately before the relevant date, providing services under Part II of the Act.

(2) Subject to paragraph 3, an existing practitioner may, pursuant to sub-paragraph (1), be included in the corresponding list of more than one Primary Care Trust.

Supplementary Lists

3.—(1) Subject to sub-paragraph (2), for the purposes of paragraph 2(1)(b), where an existing practitioner's name is included in an old list prepared under section 43D of the Act (supplementary lists), the Primary Care Trusts whose locality (or part thereof) falls within the locality of the Health Authority which prepared that old list shall request that the existing practitioner specifies in which one of those Trusts' corresponding lists prepared under that section he wishes to be included.

(2) If an existing practitioner—

- (a) specifies, before 17th October 2002, which corresponding list he wishes to be included in, he shall be included in that corresponding list;
- (b) does not specify before that date which corresponding list he wishes to be included in—
 - (i) the Primary Care Trusts specified in sub-paragraph (1) shall, before 24th October 2002, determine among themselves on which one of those lists he is to be included;
 - (ii) if those Primary Care Trusts have not made a determination pursuant to head (i), they shall so inform the relevant Strategic Health Authority by 25th October 2002, and that Strategic Health Authority shall determine, by 31st October 2002, on which one of those lists that existing practitioner is to be included.

(3) The provisions of the National Health Service (General Medical Services Supplementary List) Regulations 2001(4) shall be modified so that any existing practitioner, in respect of whom the process provided for in paragraph 3(2) has not yet been concluded, shall be, from the relevant date until that process is concluded, deemed to be included in the supplementary list of a Primary Care Trust that is nominated for that purpose by the relevant Strategic Health Authority from amongst the Primary Care Trusts within its locality.

(4) The Primary Care Trust, in whose list the name of an existing practitioner is to be included following the procedure provided for in sub-paragraph (2)(b), shall inform the practitioner that he is included in their corresponding list.

(4) S.I. 2001/3740, amended by S.I. 2002/848 and S.I. 2002/1920.

Matters consequential on allocation to lists

4.—(1) Subject to any specific provision in Parts 2, 3, 4 or 5 of this Schedule, where a Health Authority has not, before the relevant date, finally determined or dealt with any—

- (a) application by a person to be included in a list;
- (b) vacancy;
- (c) deferred decision; or
- (d) other matter,

which was the responsibility of that Health Authority pursuant to sections 29, 29A, 29B, 36, 38, 39, 42, 43, 43ZA, 43D, 49F, 49I, 49L, 49M, 49N, 49O, 49P or 49Q of the Act⁽⁵⁾, or pursuant to any regulations made under those provisions, sub-paragraph (2) shall apply.

(2) Where this sub-paragraph applies—

- (a) if the Health Authority that has not finally dealt with or determined that matter is the Health Authority in whose old list the existing practitioner's name is included, the appropriate Primary Care Trust or Trusts shall, on and after the relevant date, be responsible for dealing with or determining that matter; or
- (b) if the Health Authority that has not finally dealt with or determined that matter is not a Health Authority in whose old list the practitioner's name was included, the Primary Care Trust or Trusts who would have been the appropriate Primary Care Trust or Trusts if that practitioner's name had been included in the old list of that Health Authority shall, on and after the relevant date, be responsible for dealing with or determining that matter,

save that where, pursuant to this sub-paragraph, there is more than one Primary Care Trust who is responsible for dealing with or determining the matter, those Primary Care Trusts shall agree amongst themselves which one or more of them should determine or deal with that matter but if those Trusts are unable to so agree, the relevant Strategic Health Authority shall determine which one or more of them shall be responsible for dealing with or determining the matter.

(3) Subject to any specific provision made in Parts 2, 3, 4 or 5 of this Schedule, where, pursuant to sub-paragraph (2), a Primary Care Trust is responsible for dealing with or determining a matter that falls within sub-paragraph (1)(a) to (d), any acts done by the Health Authority in relation to that matter before the due date shall, on and after the relevant date, be deemed to have been done by that Primary Care Trust.

(4) Subject to any specific provision made in Parts 2, 3, 4 or 5 of this Schedule, any matter, decision or determination binding upon a Health Authority that relates to a matter falling within sub-paragraph (1)(a) to (d), shall be equally binding upon the Primary Care Trust or Trusts that, pursuant to sub-paragraph (2), will, on and after the relevant date, be responsible for determining or dealing with that matter.

Local representative committees

5.—(1) Anything done before the relevant date by or in relation to any Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee which was, immediately before the relevant date, recognised by the Health Authority pursuant to section 44 of the Act, shall—

- (a) where that thing has been done in connection with a practitioner, be treated as having been done by or in relation to the corresponding committee recognised by the appropriate Primary Care Trust on whose corresponding list that practitioner's name is included or to which an application is, by virtue of paragraph 4(1)(a), treated as having been made; and

(5) Section 43ZA was added by section 21 of the 2001 Act and sections 49F, 49I, 49L, 49M, 49N, 49O, 49P and 49Q were added by section 25 of that Act.

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(b) in any other case, be treated as having been done by or in relation to any corresponding committee which is recognised by any Primary Care Trust whose locality is included in the locality of that Health Authority.

(2) A local representative committee recognised by a Health Authority, may exercise any functions given to it under—

- (a) the National Health Service (Service Committees and Tribunals) Regulations 1992(6);
- (b) the National Health Service (General Dental Services) Regulations 1992(7);
- (c) the National Health Service (General Medical Services) Regulations 1992(8);
- (d) the National Health Service (General Ophthalmic Services) Regulations 1986(9);
- (e) the National Health Service (Pharmaceutical Services) Regulations 1992(10);
- (f) the National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997(11); or
- (g) the Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999(12),

in relation to any matter which was referred to it, or initiated by it, before the relevant date, as if it were a committee recognised by a Primary Care Trust, and in determining to whom it should address its decision on any matter, sub-paragraph (3) shall apply.

(3) Where this paragraph applies, the local representative committee shall determine the Primary Care Trust or Trusts to whom its decision should be addressed save that that Trust or those Trusts must be situated within the locality of the Health Authority which recognised it immediately before the relevant date.

(4) In this paragraph—

“corresponding committee” means a Local Medical Committee, Local Dental Committee, Local Optical Committee or Local Pharmaceutical Committee (as the case may be); and

“practitioner” means a person providing, or seeking to provide services under Part II of the Act or in accordance with arrangements made under section 28C of the Act.

(6) S.I. 1992/664.
(7) S.I. 1992/661.
(8) S.I. 1992/635.
(9) S.I. 1986/975.
(10) S.I. 1992/662.
(11) S.I. 1997/2289.
(12) S.I. 1999/2337.