
STATUTORY INSTRUMENTS

2004 No. 865

**The General Medical Services and Personal Medical Services
Transitional and Consequential Provisions Order 2004**

PART 1

GENERAL

Citation, commencement, application and interpretation

1.—(1) This Order may be cited as the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 and shall come into force on 1st April 2004.

(2) Parts 1 to 8 of this Order, article 120 and Schedule 2 apply only in relation to England.

(3) The savings, modifications and amendments of enactments made by articles 110 to 119 and Schedule 1 have no application to Wales but, subject to that, and save as specifically provided in relation to articles 116 and 117 and paragraphs 19 and 20 of Schedule 1, the extent of those provisions is the same as that of the enactment saved, modified or amended.

(4) In this Order—

“the 1990 Act” means the National Health Service and Community Care Act 1990⁽¹⁾;

“the 1992 Regulations” means the National Health Service (General Medical Services) Regulations 1992⁽²⁾;

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003;

“the 2003 Order” means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003⁽³⁾;

“the 2004 Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2004⁽⁴⁾;

“accredited service provider” has the same meaning as in the Out of Hours Regulations;

“additional services” has the same meaning as in the 2004 Regulations;

“bank holiday” means any day that is specified or proclaimed as a bank holiday pursuant to section 1 of the Banking and Financial Dealings Act 1971⁽⁵⁾;

“the Choice Regulations” means the National Health Service (Choice of Medical Practitioner) Regulations 1998⁽⁶⁾;

“contractor” has, unless the context otherwise requires, the meaning given in article 57;

(1) 1990 c. 19.

(2) S.I. 1992/635.

(3) S.I. 2003/1250.

(4) S.I. 2004/291.

(5) 1971 c. 80.

(6) S.I. 1998/668 as amended by S.I. 1999/3179 and 2002/2469.

“core hours” means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;

“default contract” means a contract under article 13 of the Transitional Order and “default contractor” shall, except in Part 3, where it has the meaning given in article 43(3), be construed accordingly;

“essential services” means the services described in regulation 15(3), (5), (6) and (8) of the 2004 Regulations;

“FHSAA” means the Family Health Services Appeal Authority constituted under section 49S of the 1977 Act(7);

“general medical services contract” means a contract under section 28Q of the 1977 Act(8) and “general medical services contractor” shall, except in Part 3, where it has the meaning given in article 43(3), be construed accordingly;

“list of patients” means—

- (a) in relation to a person providing general medical services under section 29 of the 1977 Act(9), the list of patients of a medical practitioner prepared by the Primary Care Trust under regulation 19 of the 1992 Regulations;
- (b) in relation to a general medical services contractor or a default contractor, the list prepared and maintained by the Primary Care Trust under the term of a general medical services contract which gives effect to paragraph 14 of Schedule 6 to the 2004 Regulations or under the equivalent term of a default contract; and
- (c) in relation to a person providing services under an agreement for primary medical services made (or, pursuant to article 58, deemed to be made) under section 28C of the 1977 Act(10)—
 - (i) the list prepared and maintained by the Primary Care Trust under the term of that agreement which gives effect to paragraph 13 of Schedule 5 to the Personal Medical Services Agreements Regulations, or
 - (ii) the doctor’s or pooled list required to be kept under the terms of any directions made by the Secretary of State under section 17 of the 1977 Act(11) in relation to patient lists for transitional agreements;

“Local Medical Committee” means—

- (a) until 1st April 2004, a committee recognised under section 44 of the 1977 Act (12);
- (b) from that date, a committee recognised under section 45A of that Act(13);

(7) Section 49S was inserted into the 1977 Act by section 27(1) of the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”).

(8) Section 28Q was inserted into the 1977 Act by section 175(1) of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) (“the 2003 Act”).

(9) Section 29 was amended by the Health Services Act 1980 (c. 53), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2, the Medical Act 1983 (c. 54), Schedule 5, paragraph 16(a), the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 18, the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 28(b), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8, the 2001 Act, sections 17 and 23, the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), Schedule 2, paragraph 3 and Schedule 8, paragraph 2 and S.I. 1985/39 and 2002/3135. It is to be repealed from 1st April by section 175(2) of the 2003 Act.

(10) Section 28C was inserted into the Act by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(1) and amended by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 15, the 2001 Act, Schedule 5, paragraph 11(4), the 2002 Act, Schedule 3, paragraph 7(2) and the 2003 Act, Schedule 11, paragraph 14.

(11) Section 17 was substituted by the the 1999 Act, section 12(1) and amended by the 2001 Act, Schedule 5, paragraph 5(3) and the 2002 Act, Schedule 1, paragraph 7.

(12) Section 44 was amended by the Health and Social Security Act 1984 (c. 48), section 24 and Schedule 8, Part 1, the National Health Service and Community Care Act 1990 (c. 19), section 12(4), the 1995 Act, Schedule 1, paragraph 32(a), the 1999 Act, section 11, the 2001 Act, section 43(6) and Schedule 5, paragraph 5(7), the 2002 Act, section 5 and S.I. 2002/2861 and was repealed, in relation to Local Medical Committees, by the 2003 Act, Schedule 11, paragraph 21.

(13) Section 45A was inserted into the 1977 Act by paragraph 23 of Schedule 11 to the 2003 Act.

“medical list” means the list of medical practitioners undertaking to provide general medical services for persons in its area kept by a Primary Care Trust under regulations made under section 29(2)(a) of the 1977 Act⁽¹⁴⁾;

“medical performers list” means a list of medical practitioners prepared and published pursuant to regulation 3(1) of the Performers Lists Regulations;

“the NHS dispute resolution procedure” means, except in Part 4, the procedure for resolution of disputes specified in paragraphs 101 and 102 of Schedule 6 to the 2004 Regulations;

“out of hours period”, unless the context otherwise requires, has the same meaning as in regulation 2(1) of the 2004 Regulations;

“Out of Hours Regulations” means the National Health Service (Out of Hours Medical Services) and National Health Service (General Medical Services) Amendment Regulations 2002⁽¹⁵⁾;

“Performers Lists Regulations” means the National Health Service (Performers Lists) Regulations 2004⁽¹⁶⁾;

“personal medical services agreement” means an agreement made under section 28C of the 1977 Act;

“the Personal Medical Services Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004⁽¹⁷⁾;

“pilot scheme” means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997⁽¹⁸⁾;

“pilot scheme provider” means a person who is providing services under a pilot scheme;

“PMS contractor” means—

- (a) a contractor as defined in regulation 2 of the Personal Medical Services Agreements Regulations; or
- (b) in relation to a transitional agreement, a contractor as defined in article 57;

“practice premises”, in relation to a person providing services under section 29 of the 1977 Act, has the same meaning as in regulation 2(1) of the 1992 Regulations and, in relation to a general medical services contractor or a default contractor, has the same meaning as in regulation 2(1) of the 2004 Regulations;

“registered patient” means—

- (a) a person who is recorded by the Primary Care Trust as being on the list of patients of a default contractor or a general medical services contractor, or
- (b) a person whom a default contractor or a general medical services contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Primary Care Trust and who has not been notified by the Primary Care Trust as having ceased to be on that list;

“temporary resident” means a person accepted by a general medical services contractor or a default contractor as a temporary resident under the term of its general medical services contract which gives effect to paragraph 16 of Schedule 6 to the 2004 Regulations (or under the equivalent term of its default contract) and for whom the contractor’s responsibility has not been terminated in accordance with the terms of the general medical services contract or default contract;

⁽¹⁴⁾ Section 29(2)(a) was substituted by the 2002 Act, Schedule 2, paragraph 3(3)(a).

⁽¹⁵⁾ S.I. 2002/2548, as amended by S.I. 2003/26.

⁽¹⁶⁾ S.I. 2004/585.

⁽¹⁷⁾ S.I. 2004/627.

⁽¹⁸⁾ 1997 c. 46.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“transitional agreement” means an agreement which is deemed under article 58 to have been made under section 28C of the 1977 Act and which has not been varied in accordance with article 59;

“the Transitional Order” means the General Medical Services Transitional and Consequential Provisions Order 2004⁽¹⁹⁾.