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STATUTORY INSTRUMENTS

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**2012 No. 970**

**The National Health Service (Primary Medical Services)  
(Miscellaneous Amendments) Regulations 2012**

**PART 3**

**AMENDMENT OF THE PMS AGREEMENTS REGULATIONS**

**Insertion of new regulation 18A**

**11.**—(1) After regulation 18 (other contractual terms) of the PMS Agreements Regulations, insert—

**“Variation of contractual terms in respect of entering into arrangements under the Patient Choice Scheme**

**18A.**—(1) This regulation applies where the contractor and the Primary Care Trust enter into arrangements under the Patient Choice Scheme.

(2) The terms of the agreement—

- (a) which have the same effect as the provisions specified in paragraph (3) must be varied in accordance with paragraph (4); and
- (b) must be varied to include terms which have the same effect as the provisions specified in paragraphs (5) to (7),

but only to the extent that such variations relate to the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with the Patient Choice Scheme with effect from the start of the day on which such arrangements commence and for the period ending at the end of the day which is the date of the termination of those arrangements, which must be no later than 31st March 2013.

(3) The terms of the agreement specified in this paragraph are—

- (a) the terms which require the contractor to provide essential services and any other service;
- (b) the terms which require the contractor to provide out of hours services to patients to whom it provides essential services;
- (c) the terms in Schedule 5 (other contractual terms)—
  - (i) paragraph 1 (services to registered patients);
  - (ii) paragraph 3(1) (attendance at practice premises);
  - (iii) paragraph 4(2)(a) (attendance outside practice premises); and
  - (iv) paragraph 16(2) (refusal of applications for inclusion in the list of patients).

(4) The agreement must include terms which have the effect of temporarily releasing the contractor and the Primary Care Trust from all obligations, payments, rights and liabilities

relating to those terms (and only those terms) which have the same effect as the provisions specified in paragraph (3)—

- (a) including any right to enforce those terms only in respect of the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with the Patient Choice Scheme; and
- (b) only where, in the opinion of the contractor, it is not clinically appropriate or practical to provide the services or access to such services in accordance with those terms, or comply with those terms, under arrangements made under the Patient Choice Scheme.

(5) The agreement must also include a term which has the effect of requiring the contractor to notify a person in writing that where the contractor is minded to accept that person onto its list of patients in accordance with the Patient Choice Scheme the contractor is under no obligation to provide—

- (a) essential services and any other service in core hours, in a case where at the time the treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; or
- (b) out of hours services, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.

(6) The agreement must also include terms to have the effect of providing that immediately after the date of the termination of the arrangements under the Patient Choice Scheme, the variations made as a consequence of paragraph (2) must terminate save to the extent necessary in respect of enforcing any obligation, condition, payment, right and liability arising from those terms prior to the date of termination.

(7) In a case where primary medical services are provided to a patient under arrangements made in accordance with the Patient Choice Scheme but that patient is not on the contractor's list of patients, the agreement must contain a term which has the effect of requiring payments to be made under the agreement and such payment must be made in accordance with the provisions in regulation 13(2) (finance) and must also be based on the payment made and other conditions relating to payment under the Patient Choice Scheme contained in the directions given by the Secretary of State under section 87 of the 2006 Act (GMS contracts: payments).”.