
STATUTORY INSTRUMENTS

2004 No. 865

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

PART 2

**TRANSITIONAL PROVISIONS RELATING
TO GENERAL MEDICAL SERVICES**

Application and interpretation of this Part

2.—(1) In this Part—

- (a) articles 3 to 31 apply to a default contract or a general medical services contract entered into on or before 31st March 2004 with—
 - (i) an individual medical practitioner who has entered into the general medical services contract pursuant to an entitlement under article 3 of the Transitional Order or the default contract pursuant to article 13 of that Order,
 - (ii) two or more individuals practising in partnership who have entered into the general medical services contract pursuant to an entitlement under article 5 of that Order or the default contract pursuant to article 13 of that Order, or
 - (iii) a company in which one or more of the legal and beneficial shareholders is, or are, on the date on which the general medical services contract is signed, providing services under section 29 of the 1977 Act;
- (b) articles 32 and 33 apply to the contracts specified in sub-paragraph (a) and to a general medical services contract which takes effect immediately after a default contract with the same parties ceases to have effect; and
- (c) article 34 applies to all general medical services contracts and default contracts entered into before 1st April 2005.

(2) Unless it is entered into with a person to whom the particular article does not apply, a general medical services contract or a default contract which falls within paragraph (1) shall include, or be deemed to include, terms which have the effect specified in articles 3 to 34.

(3) In this Part—

“relevant medical practitioner” means a medical practitioner who—

- (a) on 31st March 2004, or on the date on which a default contract or a general medical services contract is entered into, if earlier, is providing services under section 29 of the 1977 Act; and
- (b) on or before 31st March 2004—
 - (i) has entered into a default contract or a general medical services contract as an individual medical practitioner or as one of two or more individuals practising in partnership, or

- (ii) is a legal and beneficial shareholder in a company which has entered into a general medical services contract;

“succeeding contractor” means the default contractor which is a party to the default contract or the general medical services contractor which is a party to the general medical services contract which—

- (a) a relevant medical practitioner has entered into either as an individual medical practitioner or as one of two or more individuals practising in partnership; or
- (b) has been entered into by a company in which a relevant medical practitioner is a legal and beneficial shareholder.

Applications for inclusion in lists of patients

3. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for inclusion in his list of patients pursuant to regulation 2 or 3(1) of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall, on 1st April 2004, be regarded as if it had been made to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 15 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

Acceptance of applications for inclusion in lists of patients

4.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had agreed to accept a person on his list of patients pursuant to paragraph 6 of Schedule 2 to the 1992 Regulations⁽¹⁾ but on 31st March 2004 he had not yet sent the signed medical card or the application to the Primary Care Trust in accordance with sub-paragraph (3) of that paragraph, that acceptance shall be regarded on 1st April 2004 as an acceptance by the succeeding contractor and notification of that acceptance shall be sent by the succeeding contractor to the Primary Care Trust in accordance with—

- (a) the term of its general medical services contract which gives effect to paragraph 15(5) of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In paragraph (1), “medical card” has the same meaning as in regulation 2(1) of the 2004 Regulations.

Removal from the list of patients at the request of the patient

5. Where, on or before 31st March 2004, a Primary Care Trust had received notice from a patient under regulation 23(1)(a) of the 1992 Regulations⁽²⁾ that he wished to be removed from a relevant medical practitioner’s list of patients but on 31st March 2004 that removal had not yet taken effect in accordance with regulation 23(1)(b) of those Regulations, the removal shall take effect as a removal from the list of patients of the succeeding contractor as if it were a removal pursuant to a request received by the Primary Care Trust in accordance with—

- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 19 of Schedule 6 to the 2004 Regulations, subject to the modification that the reference to the period of 14 days in the term which gives effect to paragraph 19(3)
- (b) shall be read as a reference to the period of 14 days after the date on which the request

(1) Paragraph 6 was amended by S.I.1998/682 and 2002/2469.

(2) Regulation 23(1) was amended by S.I. 2002/2469.

made under regulation 23(1)(a) of the 1992 Regulations was received by the Primary Care Trust; or

- (b) the equivalent term of its default contract subject to a modification to the same effect.

Removal from the list of patients at the request of the relevant medical practitioner

6.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Primary Care Trust that he wished to have a patient removed from his list of patients in accordance with paragraph 9 of Schedule 2 to the 1992 Regulations⁽³⁾ but that removal had, on 31st March 2004, not yet taken effect, paragraph (2) shall apply.

(2) Except where paragraph (3) applies, the removal shall take effect as a removal from the list of patients of the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 20(8) of Schedule 6 to the 2004 Regulations, subject to the modification that the reference in that term to the eighth day after the Primary Care Trust receives the notice shall be read as a reference to the eighth day after the Primary Care Trust received the notice sent under paragraph 9 of Schedule 2 to the 1992 Regulations; or
- (b) the equivalent term of its default contract, subject to a modification to the same effect.

(3) Where, on or before 31st March 2004, the Primary Care Trust had been—

- (a) informed by the relevant medical practitioner under paragraph 9(2) of Schedule 2 to the 1992 Regulations that he was treating the patient at intervals of less than seven days but had not yet been notified by him that the patient no longer needed such treatment; or
- (b) notified by the relevant medical practitioner under that paragraph that the person no longer needed treatment at intervals of less than seven days,

paragraph (4) shall apply.

(4) In a case which falls within paragraph (3), the removal shall take effect as a removal from the list of patients of the succeeding contractor on—

- (a) the date on which the Primary Care Trust receives notification of the registration of the person with another provider of essential services (or their equivalent);
- (b) the eighth day after the Primary Care Trust received notice from the relevant medical practitioner that the person no longer needed treatment at intervals of less than seven days; or
- (c) the eighth day after the Primary Care Trust receives notice from the succeeding contractor that the patient no longer needs treatment at intervals of less than seven days,

whichever is the sooner.

Removals from the list of patients who are violent

7.—(1) This article applies where, on or before 31st March 2004, a person had been removed from a relevant medical practitioner's list of patients with immediate effect pursuant to paragraph 9A of Schedule 2 to the 1992 Regulations⁽⁴⁾ but—

- (a) confirmation in writing had not yet been given to the Primary Care Trust under paragraph 9A(2);
- (b) reasonable steps had not yet been taken by the relevant medical practitioner under paragraph 9A(4) to inform the person whose name had been removed; or

(3) Paragraph 9 was amended by S.I. 1994/633, 1998/682 and 2002/2469.

(4) Paragraph 9A was inserted by S.I. 1994/633 and amended by S.I. 2002/2469.

- (c) written notice of the removal had not yet been given to the person by the Primary Care Trust under regulation 19(6B) of the 1992 Regulations⁽⁵⁾.
- (2) In a case to which paragraph (1)(a) applies written confirmation of the request for removal shall be given to the Primary Care Trust by the succeeding contractor within 7 days from the date on which notification was given under paragraph 9A(1).
- (3) In a case to which paragraph (1)(b) applies, reasonable steps shall be taken by the succeeding contractor to inform the patient of the request for removal.
- (4) In a case to which paragraph (1)(c) applies, the Primary Care Trust shall send written notice of the removal to the patient.

Removals from the list of patients who have moved

8.—(1) Where, on or before 31st March 2004, a Primary Care Trust had informed a patient and a relevant medical practitioner, in accordance with regulation 23(2) of the 1992 Regulations⁽⁶⁾, that the medical practitioner was no longer obliged to visit and treat him but the 30 days referred to in that regulation had not yet expired, that information shall be regarded as if it had been given under—

- (a) the term of the succeeding contractor's general medical services contract which gives effect to paragraph 23 of Schedule 6 to the 2004 Regulations, subject to the modification that the reference to the period of 30 days in the term which gives effect to paragraph 23(1)(c) shall be read as a reference to 30 days from the date of the information given by the Primary Care Trust under regulation 23(2) of the 1992 Regulations; or
- (b) the equivalent term of its default contract subject to a modification to the same effect.

(2) Where, on or before 31st March 2004, a Primary Care Trust had given a relevant medical practitioner notice in writing, in accordance with regulation 23(4) of the 1992 Regulations⁽⁷⁾, that it intended to remove a person from the practitioner's list of patients but the six months referred to in that regulation had not yet expired, that notice shall be regarded as if it had been given to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 24 of Schedule 6 to the 2004 Regulations, subject to the modification that the reference to the period of six months in the term which gives effect to paragraph 24(a) shall be read as a reference to six months from the date of the notice given by the Primary Care Trust under regulation 23(4) of the 1992 Regulations; or
- (b) the equivalent term of its default contract subject to a modification to the same effect.

Removals not reflected in the list of patients on 31st March 2004

9.—(1) This article applies where—

- (a) on or before 31st March 2004, the removal of a patient from a relevant medical practitioner's list of patients had taken effect under the 1992 Regulations; and
- (b) the Primary Care Trust had not, on 31st March 2004, reflected that removal in the list of patients of that medical practitioner which it maintained under regulation 19 of the 1992 Regulations.

(2) In a case to which this article applies, the Primary Care Trust shall—

- (a) remove the patient from the succeeding contractor's list of patients as soon as reasonably practicable after 1st April 2004; and

(5) Paragraph (6B) was inserted into regulation 19 by S.I. 1994/633 and amended by S.I. 1998/682 and 2002/2469.

(6) Regulation 23(2) was amended by S.I. 1997/730, 2001/3742 and 2002/2469.

(7) Regulation 23(4) was amended by S.I. 2001/3742 and 2002/2469.

- (b) if notification of the removal was required to be given to the medical practitioner or the patient under the provision of the 1992 Regulations relevant to the removal and had not been given on or before 31st March 2004, notify the succeeding contractor and the patient of the removal.

Applications for acceptance as a temporary resident

10. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for acceptance as a temporary resident under regulation 7 of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall be regarded as if it had been made to the succeeding contractor and shall be dealt with in accordance with—

- (a) the term of its general medical services contract which gives effect to paragraphs 16 and 17 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent terms of its default contract.

Acceptance of temporary residents

11.—(1) This article applies where—

- (a) on or before 31st March 2004, a relevant medical practitioner had accepted a person as a temporary resident under paragraph 7(b) of Schedule 2 to the 1992 Regulations⁽⁸⁾; and
- (b) on 31st March 2004, his responsibility for that patient had not yet been terminated under paragraphs 9 and 10 of that Schedule⁽⁹⁾ or the period for which the person was accepted as a temporary resident had not yet come to an end.

(2) In a case to which this article applies, the person shall, on 1st April 2004, be treated as if he had been accepted as a temporary resident by the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 16 of Schedule 6 to the 2004 Regulations, subject to the modification that reference to a period of three months in that term shall be read as a reference to a period of three months starting with the date on which the person was accepted as a temporary resident by the relevant medical practitioner under paragraph 7 of Schedule 2 to the 1992 Regulations; or
- (b) the equivalent term of its default contract subject to a modification to the same effect.

Termination of responsibility for temporary residents

12. Where, on or before 31st March 2004, a relevant medical practitioner had informed the Primary Care Trust in writing in accordance with paragraph 10 of Schedule 2 to the 1992 Regulations that he wished to terminate his responsibility for a temporary resident but, on 31st March 2004, that responsibility had not yet terminated under paragraph 9 of that Schedule, the responsibility of the succeeding contractor for that temporary resident shall terminate seven days after the date on which the information under paragraph 10 of Schedule 2 to the 1992 Regulations was given to the Primary Care Trust by the relevant medical practitioner.

Provision of immediately necessary treatment

13. Where, on 31st March 2004, a relevant medical practitioner was responsible for providing immediately necessary treatment to any person under paragraph 4(4) of Schedule 2 to the 1992 Regulations⁽¹⁰⁾, the succeeding contractor shall continue to be responsible for providing such

⁽⁸⁾ Paragraph 7 was amended by S.I. [1998/682](#).

⁽⁹⁾ Paragraph 9 was amended by S.I. [1994/633](#), [1998/682](#) and [2002/2469](#); paragraph 10 was amended by S.I. [2002/2469](#).

⁽¹⁰⁾ Paragraph 4(4) was substituted by S.I. [1994/633](#) and amended by S.I. [1998/682](#).

treatment to that person for the period for which the relevant medical practitioner would have been responsible if that paragraph had not been revoked.

Newly registered patients

- 14.**—(1) This article applies where, on 31st March 2004, a patient specified in paragraph (2)—
- (a) was entitled to be invited to participate in a consultation under paragraph 14(5) of Schedule 2 to the 1992 Regulations⁽¹¹⁾; and
 - (b) had not been given such an invitation.
- (2) The patient referred to in paragraph (1) is a patient—
- (a) who, on or before 31st March 2004—
 - (i) had applied for inclusion in a relevant medical practitioner’s list of patients under regulation 2 or 3 of the Choice Regulations⁽¹²⁾ and whose application had been accepted, or
 - (ii) had been assigned to a relevant medical practitioner’s list under regulation 4 of the Choice Regulations; and
 - (b) in respect of whom a Primary Care Trust had not granted deferment of the obligation to invite him to participate in a consultation under paragraph 14 of Schedule 2 to the 1992 Regulations.
- (3) A patient to whom this article applies shall, on 1st April 2004, be regarded as a patient who falls within—
- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations; or
 - (b) the equivalent term of its default contract.

Appointments system

- 15.** Where, on or before 31st March 2004, a relevant medical practitioner had notified a Primary Care Trust under paragraph 31 of Schedule 2 to the 1992 Regulations—
- (a) that he intended to operate an appointments system; or
 - (b) of any proposal to discontinue such a system,

that notice shall be regarded as a notice given by the succeeding contractor to the Primary Care Trust for the purposes of the term of the general medical services contract which gives effect to paragraph 82(c) of Schedule 6 to the 2004 Regulations or the equivalent term of the default contract.

Qualifications of performers

- 16.**—(1) Where, on 1st April 2004, a succeeding contractor continues to employ or engage a person who on 31st March 2004 was employed or engaged in accordance with the requirements of Schedule 2 to the 1992 Regulations by the relevant medical practitioner in relation to whom it is a succeeding contractor, paragraphs (2) and (3) shall apply.
- (2) The requirements to make checks contained in the terms of the general medical services contract which give effect to paragraphs 57(1)(b) and 58(1) of Schedule 6 to the 2004 Regulations, or in the equivalent terms of the default contract—

(11) Paragraph 14 was amended by S.I. 1998/682 and 2002/2469.

(12) Regulation 3 was amended by S.I. 2002/2469.

- (a) in a case where equivalent checks have previously been carried out in respect of that person by the relevant medical practitioner, shall not apply; or
- (b) in any other case, shall apply subject to the modification that the checks may be carried out at any time up to 30th June 2004.

(3) The requirement to obtain references in the term of the general medical services contract which gives effect to paragraph 59 of Schedule 6 to the 2004 Regulations, or in the equivalent term of the default contract, shall not apply if such references have been obtained, checked and found to be satisfactory by the relevant medical practitioner by whom the health care professional was employed or engaged on 31st March 2004.

Independent nurse prescribers and supplementary prescribers

17.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Primary Care Trust of any matters relating to an independent nurse prescriber or a supplementary prescriber under paragraph 28A of Schedule 2 to the 1992 Regulations(13), the succeeding contractor shall not be required to notify the Primary Care Trust of those same matters under—

- (a) the term of its general medical services contract which gives effect to paragraph 65 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In paragraph (1), “independent nurse prescriber” and “supplementary prescriber” have the same meaning as in paragraph 1 of Schedule 2 to the 1992 Regulations(14).

Repeatable prescribing services

18.—(1) Where, on 31st March 2004, a relevant medical practitioner met the requirements for providing repeatable prescribing services in regulation 33A of the 1992 Regulations(15) and had, on or before that date, notified the Primary Care Trust of his intention to provide such services in accordance with that paragraph, that notification shall be regarded, on 1st April 2004, as a notification given by the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 40 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) For the purposes of a notification regarded as given under sub-paragraph (1), the date on which the succeeding contractor intends to begin to provide repeatable prescribing services included in the notification shall be deemed to be 1st April 2004.

(3) In this paragraph, “repeatable prescribing services” in relation to a relevant medical practitioner has the same meaning as in regulation 2(1) of the 1992 Regulations(16) 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.

Patient records

19.—(1) Where, on 31st March 2004, a relevant medical practitioner had the written consent of the Primary Care Trust to the keeping of computerised records under paragraph 36 of Schedule 2 to

(13) Paragraph 28A was inserted by S.I. 1999/326 and amended by S.I. 2002/2469 and 2003/699.

(14) These definitions were inserted into paragraph 1 by S.I. 2003/699.

(15) Regulation 33A was inserted by S.I. 2003/1084.

(16) The definition of “repeatable prescribing services” was inserted into regulation 2(1) of the 1992 Regulations by S.I. 2003/1084.

the 1992 Regulations(17) and that consent had not been withdrawn, that consent shall be regarded as written consent to the succeeding contractor for the purposes of —

- (a) the term of its general medical services contract which gives effect to paragraph 73 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of the default contract.

(2) Where—

- (a) on or before 31st March 2004, a Primary Care Trust had requested a relevant medical practitioner to send it the records relating to a patient under paragraph 36(6) of Schedule 2 to the 1992 Regulations; and
- (b) on 31st March 2004 that request had not yet been complied with,

the records requested shall be sent by the succeeding contractor to the Primary Care Trust as soon as possible.

(3) Where, on or before 31st March 2004, a relevant medical practitioner had been informed of the death of a patient on its list by the Primary Care Trust or had otherwise learned of the death of such a patient but on 31st March 2004 had not yet sent that patient's records to the Primary Care Trust in accordance with paragraph 36(6)(b) of Schedule 2 to the 1992 Regulations, those records shall be sent to the Primary Care Trust by the succeeding contractor—

- (a) in a case in which the relevant medical practitioner was informed of the death by the Primary Care Trust, within 14 days of the date on which he was so informed; or
- (b) in any other case, within one month of the date on which the relevant medical practitioner learned of the death.

Rights of entry

20.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a written request for inspection of his practice premises under paragraph 27(b) of Schedule 2 to the 1992 Regulations(18) but, on 31st March 2004, no inspection had yet taken place pursuant to that request, the request shall, on 1st April 2004, be regarded as notice of an intended entry to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 89 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In determining whether reasonable notice was given of any entry to the practice premises following a notice referred to in paragraph (1), regard shall be had to the date on which the request under paragraph 27(b) of Schedule 2 to the 1992 Regulations was made.

Refusal of approval of premises under paragraphs 29 and 29A of Schedule 2 to the 1992 Regulations

21.—(1) Where, on or before 31st March 2004, a Primary Care Trust had notified a relevant medical practitioner under paragraph 29(12) of Schedule 2 to the 1992 Regulations(19) of its refusal of an application made under—

- (a) paragraphs 29(1) or (17) of that Schedule in relation to any place at which he was to be available; or

(17) Paragraph 36 was substituted by S.I. 2000/2383 and amended by S.I. 2002/2469.

(18) Paragraph 27(b) was amended by S.I. 2002/2469.

(19) Paragraph 29 was amended by S.I. 2001/3742 and 2002/554 and 2469.

(b) paragraphs 29A(1) or (6) of that Schedule(20) in relation to the treatment of patients other than at his practice premises,

paragraphs (2) and (3) shall apply.

(2) Where, on 31st March 2004, the time for appealing against the refusal specified in paragraph 29(13) of Schedule 2 to the 1992 Regulations had not expired and no appeal had yet been made, the time for appealing shall continue as if paragraph 29 and, if applicable, paragraph 29A of that Schedule had not been revoked.

(3) Where—

(a) on 31st March 2004, the relevant medical practitioner had appealed in writing against that refusal under paragraph 29(13) of Schedule 2 to the 1992 Regulations but the appeal had not been determined or withdrawn; or

(b) after 31st March 2004, an appeal is made pursuant to paragraph (2),

that appeal shall be dealt with, or continue to be dealt with, as if paragraph 29 and, if applicable, paragraph 29A of that Schedule had not been revoked.

(4) Where an appeal dealt with under paragraph (3) is successful, the Primary Care Trust shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

(5) A variation agreed by the Primary Care Trust pursuant to paragraph (4) shall have effect—

(a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and

(b) only if it is in writing and signed by or on behalf of the Primary Care Trust and the succeeding contractor.

Withdrawal of approval of premises under paragraph 29A of Schedule 2 to the 1992 Regulations

22.—(1) Where—

(a) on or before 31st March 2004, a Primary Care Trust had notified a relevant medical practitioner of withdrawal of its approval of premises under paragraph 29A(10) of Schedule 2 to the 1992 Regulations; and

(b) on 31st March 2004, the time for appealing specified in sub-paragraph (11) of that paragraph had not expired and no appeal had yet been made,

the time for appealing shall continue as if paragraph 29A of Schedule 2 to the 1992 Regulations had not been revoked.

(2) Where—

(a) on or before 31st March 2004, the relevant medical practitioner had appealed in writing against a withdrawal of approval under paragraph 29A(11) of Schedule 2 to the 1992 Regulations but the appeal had not been determined or withdrawn; or

(b) after 31st March 2004, an appeal is made pursuant to paragraph (1),

that appeal shall be dealt with, or continue to be dealt with, as if paragraph 29 and, if applicable, paragraph 29A of Schedule 2 to the 1992 Regulations were still in force.

(3) Where an appeal dealt with under paragraph (2) is successful, the Primary Care Trust shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect

(20) Paragraph 29A was inserted by S.I. 1995/80 and amended by S.I. 2001/3742 and 2002/554 and 2469.

of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

- (4) A variation agreed by the Primary Care Trust pursuant to paragraph (3) shall have effect—
- (a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and
 - (b) only if it is in writing and signed by or on behalf of the Primary Care Trust and the succeeding contractor.

Investigation of outstanding complaints

23.—(1) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 47A of Schedule 2 to the 1992 Regulations⁽²¹⁾ by or on behalf of a patient or former patient of a relevant medical practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 47A had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 47A had not been revoked.

(2) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 47A of Schedule 2 to the 1992 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 47A had not concluded,

that complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 47A had not been revoked.

(3) The persons referred to in paragraph (2) are—

- (a) the person or persons who was or were the former partner or partners of the medical practitioner on whose list of patients the complainant was included, if he or they meet the requirements in paragraph (4);
- (b) if the person or persons specified in paragraph (a) satisfy the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him or them, that Primary Care Trust; or
- (c) in any other case, the Primary Care Trust on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.

(4) The requirements referred to in paragraph (3) are that the former partner or partners—

- (a) has or have entered into a default contract or a general medical services contract, as an individual medical practitioner or as one of two or more individuals practising in partnership, with the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant; or
- (b) is a legal and beneficial shareholder or are legal and beneficial shareholders in a company which has entered into a general medical services contract with that Primary Care Trust.

(21) Paragraph 47A was inserted by S.I. 1996/702.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall—

- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
- (b) if they are unable to reach agreement, refer the matter to the Primary Care Trust on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Primary Care Trust shall investigate the complaint itself.

(6) Where, under this article, a complaint falls to be investigated by a Primary Care Trust the investigation shall be carried out in accordance with the directions dated 29th June 1998 on dealing with complaints about family health services practitioners given by the Secretary of State under section 17 of the 1977 Act⁽²²⁾.

Complaints relating to general medical services made after 31st March 2004

24. The complaints procedure established and operated by a succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 92 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of the default contract,

shall apply to any complaint which a patient or former patient of the relevant medical practitioner to whom it is a succeeding contractor could have made (but did not make) on or before 31st March 2004 under paragraph 47A of Schedule 2 to the 1992 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract.

Reports to a medical officer

25.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a request for information or an inquiry from a medical officer (or an officer of the Department for Work and Pensions on his behalf or at his direction) under paragraph 48 of Schedule 2 to the 1992 Regulations⁽²³⁾ but, on 31st March 2004, he had not yet responded to that request or inquiry, the succeeding contractor shall respond as if the request or inquiry had been made under—

- (a) the term of its general medical services contract which gives effect to paragraph 80 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In this article, “medical officer” means a medical practitioner who is—

- (a) employed or engaged by the Department for Work and Pensions; or
- (b) provided by an organisation in pursuance of a contract entered into with the Secretary of State for Work and Pensions.

Inquiries about prescriptions and referrals

26. Where, on or before 31st March 2004, a relevant medical practitioner had received an inquiry about prescriptions or referrals from a Primary Care Trust under paragraph 49 of Schedule 2 to

⁽²²⁾ Directions to Health Authorities on dealing with complaints about family health service practitioners and providers of personal medical services, 28th June 1998. A copy of these directions can be obtained by writing to the Department of Health, P.O. Box 777, London SE1 6XH.

⁽²³⁾ Paragraph 48 was substituted by S.I. [1998/682](#).

the 1992 Regulations(24) but had not yet responded to that inquiry, the succeeding contractor shall respond as if the inquiry had been made under—

- (a) the term of its general medical services contract which gives effect to paragraph 79 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

Notification of deaths

27. Where, on 31st March 2004, there was an outstanding requirement to report the death of a person on the practice premises of a relevant medical practitioner to the Primary Care Trust in accordance with paragraph 36C of Schedule 2 to the 1992 Regulations(25), the death shall be reported on 1st April 2004 by the succeeding contractor in accordance with—

- (a) the term of its general medical services contract which gives effect to paragraph 87 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

Arrangements with organisations providing deputy doctors

28.—(1) Where—

- (a) on 31st March 2004—
 - (i) a Primary Care Trust had, on or before that date, issued a remedial notice to a relevant medical practitioner under paragraph 21A(7) of Schedule 2 to the 1992 Regulations(26); and
 - (ii) the date specified in the notice as the one before which remedial action should be taken had not yet been reached; and
- (b) on 1st April 2004, the arrangements covered by the remedial notice are continuing in the form of a sub-contract with the succeeding contractor,

the remedial notice issued under paragraph 21A(7) of Schedule 2 to the 1992 Regulations shall be regarded as a remedial notice served in the same terms on the succeeding contractor on 1st April 2004 under the term of its general medical services contract which gives effect to paragraph 115(1) of Schedule 6 to the 2004 Regulations (or under the equivalent term of its default contract).

(2) A remedial notice deemed to have been served on the succeeding contractor pursuant to paragraph (1) shall not count as a remedial notice for the purposes of the term of the general medical services contract which gives effect to paragraph 115(6) of Schedule 6 to the 2004 Regulations (or for the purposes of the equivalent term of the default contract).

(3) In this article, “remedial notice” means, in relation to a notice issued before 1st April 2004, a notice issued under paragraph 21A(7) of Schedule 2 to the 1992 Regulations and, in relation to a notice issued after that date, a notice served under the term of the general medical services contract which gives effect to paragraph 115(1) of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract).

Notification of sub-contracts under general medical services contracts

29.—(1) Where—

- (a) on 31st March 2004, a relevant medical practitioner had in place—

(24) Paragraph 49 was amended by S.I. 2002/2469 and 2003/1084.

(25) Paragraph 36C was inserted by S.I. 2003/2644.

(26) Paragraph 21A was inserted by S.I. 2003/26.

- (i) arrangements for the engagement of a deputy of which he had informed the Primary Care Trust under paragraph 21(1) of Schedule 2 to the 1992 Regulations⁽²⁷⁾, or
 - (ii) arrangements he had made with an organisation providing deputy doctors of which he had notified the Primary Care Trust under paragraph 21A(3) of that Schedule and in relation to which the Primary Care Trust had not served a notice under paragraph 21A(10) of that Schedule; and
- (b) the succeeding general medical services contractor wishes to continue those arrangements after 31st March 2004 in the form of a sub-contract to which paragraph 69 of Schedule 6 to the 2004 Regulations applies,

any requirement for the succeeding contractor to notify the Primary Care Trust of its intention to enter into that sub-contract contained in the term of its general medical services contract which gives effect to paragraph 69(1)(b) of Schedule 6 to the 2004 Regulations shall not apply, unless the date of termination of the arrangements is extended beyond the date which applied to them on 31st March 2004 or there is a material variation in the nature of those arrangements.

(2) In this article—

“deputy” has the meaning given in paragraph 1 of Schedule 2 to the 1992 Regulations; and
“organisation providing deputy doctors” has the same meaning as in paragraph 21A(1) of that Schedule.

Practice leaflet

30.—(1) This article applies where a relevant medical practitioner had compiled a practice leaflet which met the requirements of paragraph 47 of Schedule 2 to the 1992 Regulations⁽²⁸⁾ and that leaflet was, on 31st March 2004, available to patients on his list.

(2) In the circumstances to which this article applies, the practice leaflet made available to patients by—

- (a) the succeeding contractor; or
- (b) a general medical services contractor who enters into a general medical services contract before 31st July 2004 which takes effect immediately after its default contract with the same Primary Care Trust ceases to have effect,

need not, until 1st August 2004, include all the information specified in the term of the general medical services contract which gives effect to Schedule 10 to the 2004 Regulations (or in the equivalent term of the default contract) provided that, from the date of commencement of the contract until the practice leaflet does so comply, the general medical services contractor or the default contractor makes available to patients in written form the information specified in paragraph (3).

(3) The information referred to in paragraph (2) is—

- (a) the services available under the general medical services contract or the default contract;
- (b) the opening hours of the practice premises and the method of obtaining access to services throughout the core hours;
- (c) the arrangements for services in the out of hours period (whether or not provided by the general medical services contractor or the default contractor) and how the patient may contact such services; and
- (d) if the services in sub-paragraph (c) are not provided by the general medical services contractor or the default contractor, the fact that the Primary Care Trust which is a party to the general medical services contract or the default contract is responsible for

⁽²⁷⁾ Paragraph 21(1) was amended by S.I. [2001/3742](#) and [2002/2469](#).

⁽²⁸⁾ Paragraph 47 was amended by S.I. [2001/3742](#) and [2002/2469](#).

commissioning the services and the name, address and telephone number of that Primary Care Trust.

- (4) In this article, “practice leaflet”—
- (a) in relation to the period before 1st April 2004, has the meaning given in paragraph 47 of Schedule 2 to the 1992 Regulations; and
 - (b) in relation to the period from 1st April 2004, has the meaning given in regulation 2(1) of the 2004 Regulations.

Medical examination of medical practitioners

31. Where, on or before 31st March 2004—

- (a) a Primary Care Trust had required a relevant medical practitioner to be medically examined under regulation 25(5) of the 1992 Regulations; and
- (b) that medical examination had not yet taken place,

the requirement shall, on 1st April 2004, unless the Primary Care Trust notifies him otherwise in writing, be regarded as a request made to that medical practitioner for him to be medically examined on the grounds that he is incapable of adequately providing services under the succeeding contract and arrangements for the medical examination shall, with the consent of the medical practitioner, continue to be made by the Local Medical Committee for the area of the Primary Care Trust which is a party to the succeeding contract, pursuant to the function conferred on that committee by regulation 27 of the 2004 Regulations.

Patients not seen within three years

32. The term of a general medical services contract which gives effect to paragraph 5 of Schedule 6 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to a consultation or clinic provided by the general medical services contractor (or the default contractor) included a reference to a consultation or clinic provided by—

- (a) the relevant medical practitioner in relation to whom it is a succeeding contractor; or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, the contractor who held that default contract.

Patients aged 75 years and over

33. The term of a general medical services contract which gives effect to paragraph 6 of Schedule 6 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to participating in a consultation under that term included a reference to participating in a consultation under—

- (a) paragraph 16 of Schedule 2 to the 1992 Regulations; or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, under the term of the default contract which was equivalent to paragraph 6 of Schedule 6 to the 2004 Regulations.

Arrangements for GP Registrars

34.—(1) Where, before 1st April 2005, a general medical services contractor or a default contractor employs a GP Registrar for the purpose of being trained by a GP Trainer, the requirement

for the general medical services contractor or the default contractor to have the agreement of the Secretary of State to that employment in—

- (a) the term of the general medical services contract which gives effect to paragraph 64 of Schedule 6 to the 2004 Regulations; or
- (b) the equivalent term of the default contract,

shall not apply.

(2) In this article, “GP Registrar” and “GP Trainer” have the same meaning as in regulation 2(1) of the 2004 Regulations.

Refund of fees paid under paragraph 38(f) of Schedule 2 to the 1992 Regulations

35. Where, on 31st March 2004, a patient had paid a fee to a medical practitioner under paragraph 38(f) of Schedule 2 to the 1992 Regulations but—

- (a) the period for applying for a refund of that fee under paragraph 39(1) of that Schedule(29) had not yet expired; or
- (b) an application for refund of the fee had been made but not yet determined,

the period for applying for a refund and the powers of the Primary Care Trust in dealing with any application for a refund shall continue as if paragraph 39(1) of that Schedule had not been revoked.

Annual reports

36. Notwithstanding the revocation of the 1992 Regulations, any medical practitioner to whom paragraph 50 of Schedule 2 to those Regulations (annual reports)(30) applied shall, by 30th June 2004, provide, either individually or as a member of a partnership, to the Primary Care Trust on whose medical list he appeared on 31st March 2004, an annual report in respect of the period of 12 months ending on 31st March 2004 which includes—

- (a) the number of complaints received in accordance with paragraph 47A of Schedule 2 to the 1992 Regulations(31); and
- (b) if the Primary Care Trust, having considered whether the information is available to it from another source and having consulted the Local Medical Committee, so requests, the information specified in paragraph 3 of Schedule 13 to those Regulations(32).

Determination of question whether a substance is a drug

37.—(1) Where, on 31st March 2004, a Primary Care Trust had, under regulation 36(7) of the 1992 Regulations(33), informed a medical practitioner of its decision that a substance ordered by him was not a drug but—

- (a) the medical practitioner had not given notice of appeal under paragraph (8) of that regulation; and
- (b) the time for appealing in that paragraph had not yet expired,

the time for appealing shall continue as if regulation 36 of the 1992 Regulations were still in force.

(2) Where—

(29) Paragraph 39(1) was amended by S.I. [2001/3742](#) and [2002/2469](#).

(30) Paragraph 50 was amended by S.I. [1993/540](#), [1997/730](#) and [2002/2469](#).

(31) Paragraph 47A was inserted by S.I. [1996/702](#) and amended by S.I. [2002/2469](#).

(32) Schedule 13 was substituted by S.I. [1993/540](#).

(33) Regulation 36(7) was amended by S.I. [2001/3742](#) and [2002/2469](#) and [2861](#).

- (a) on 31st March 2004, a medical practitioner had given notice of appeal against a decision of a Primary Care Trust under regulation 36 of the 1992 Regulations but that appeal had not been determined or withdrawn; or
- (b) a medical practitioner has given notice of such an appeal after 31st March 2004, pursuant to paragraph (1),

that appeal shall continue to be dealt with as if regulation 36 of the 1992 Regulations were still in force.

Entry on to medical performers list of persons approved under regulation 18A or 18B of the 1992 Regulations

38. Where a Primary Care Trust—

- (a) had, on 31st March 2004, approved a medical practitioner under regulation 18A or 18B of the 1992 Regulations⁽³⁴⁾ but had not yet entered his name on its medical list in accordance with regulation 18F(1) of those Regulations⁽³⁵⁾; and
- (b) intends to enter into a default contract or general medical services contract with two or more individuals practising in partnership one of whom is the person so approved,

it shall add that person's name to its medical performers list unless he is already on the medical performers list of another Primary Care Trust and is not withdrawing from that list.

Outstanding appeals against refusal of approval under regulation 18A or 18B of the 1992 Regulations

39.—(1) Where, on 31st March 2004—

- (a) a Primary Care Trust had refused to approve a medical practitioner under regulation 18A or 18B of the 1992 Regulations; and
- (b) he had a right of appeal under regulation 18G or 18GG of the 1992 Regulations⁽³⁶⁾ and the time for appealing had not yet expired,

the time for appealing shall continue as if those regulations had not been revoked.

(2) Where a medical practitioner whose nomination a Primary Care Trust had refused to approve under regulation 18A or 18B of the 1992 Regulations—

- (a) had, on or before 31st March 2004, given notice of appeal to the FHSAA under regulation 18G or 18GG of the 1992 Regulations but that appeal had not yet been determined or withdrawn; or
- (b) has given notice of such an appeal after 31st March 2004 pursuant to paragraph (1),

that appeal shall continue to be dealt with as if regulation 18G or, as the case may be, 18GG of the 1992 Regulations had not been revoked.

(3) Where—

- (a) following an appeal dealt with under paragraph (2), the FHSAA determines that the nomination of the medical practitioner should have been approved by the Primary Care Trust; and
- (b) a default contractor or a general medical services contractor notifies the Primary Care Trust that the person concerned is to join it as a partner,

⁽³⁴⁾ Regulations 18A and 18B were substituted by S.I. 1998/2838 and amended by S.I. 2002/554 and 2469.

⁽³⁵⁾ Regulation 18F(1) was substituted by S.I. 1998/2838 and amended by S.I. 2001/3742 and 2002/554 and 2469.

⁽³⁶⁾ Regulation 18G was substituted by S.I. 1998/2838 and amended by S.I. 2001/3742 and 2002/554 and 2469; regulation 18GG was inserted by S.I. 2001/3742 and amended by S.I. 2002/2469.

the Primary Care Trust shall add that person's name to its medical performers list unless he is already on the medical performers list of another Primary Care Trust and is not withdrawing from that list.

Permission for use of facilities in private practice under section 72 of the 1977 Act

40. Where, on 31st March 2004, a relevant medical practitioner had the permission of the Secretary of State under section 72 of the 1977 Act (permission for use of facilities in private practice), that permission shall be regarded, from 1st April 2004, as permission granted under that section to the succeeding contractor.

Recovery of overpayments

41.—(1) Where, on or before 31st March 2004, a medical practitioner had admitted an overpayment drawn to its attention by a Primary Care Trust under regulation 35(2) of the 1992 Regulations⁽³⁷⁾ (claims and overpayments) but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31st March 2004, shall, notwithstanding the repeal of the 1992 Regulations, continue to be recoverable by that Primary Care Trust and shall be treated as a debt owed by that medical practitioner to that Primary Care Trust.

(2) Notwithstanding the repeal of the 1992 Regulations, where a Primary Care Trust considers that a payment has been made to a medical practitioner under the Statement of Fees and Allowances when it was not due and has not drawn that alleged overpayment to the attention of the medical practitioner on or before 31st March 2004, the Primary Care Trust may draw that overpayment to the attention of the medical practitioner and—

- (a) where the overpayment is admitted by him, the Primary Care Trust may recover the amount overpaid from him as a civil debt; and
- (b) where the overpayment is not admitted by him, the arrangements for appeals set out in paragraph 80 of the Statement of Fees and Allowances shall apply.

(3) In this article “Statement of Fees and Allowances” means the statement determined and published by the Secretary of State under regulation 34 of the 1992 Regulations⁽³⁸⁾, as that statement had effect on 31st March 2004.

Continuation of pre-contract disputes relating to general medical services contracts

42.—(1) Where, on or before 31st March 2004—

- (a) a prospective party to a general medical services contract had referred a pre-contract dispute to the Secretary of State to consider and determine under section 4(4) of the 1990 Act or under regulation 9 of the 2004 Regulations; and
- (b) that party entered into the general medical services contract whose terms were subject to dispute before that dispute had been determined or withdrawn,

the dispute shall, notwithstanding that the parties to the dispute have entered into a general medical services contract, continue to be dealt with under the procedure specified in regulation 9(2) of the 2004 Regulations.

(2) In the case of a dispute dealt with pursuant to paragraph (1), the determination—

- (a) may require the parties to agree an amendment or variation to the general medical services contract; and
- (b) shall be binding upon the parties to that contract.

⁽³⁷⁾ Regulation 35(2) was amended by S.I. 1996/702, 2002/2469 and 2003/2644.

⁽³⁸⁾ Regulation 34 was amended by S.I. 1993/540, 1997/2468, 2000/601 and 2002/2469.

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