



2001 CHAPTER 3

PART III

HEALTH AND PERSONAL SOCIAL SERVICES – GENERAL

Local administration

Remuneration for Part VI services

40.—(1) For Article 64A of the principal Order (regulations as to remuneration for Part VI services) there shall be substituted—

“Remuneration for Part VI services

64A.—(1) The remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part shall be determined by determining authorities (and they may also determine the remuneration to be paid to persons providing those services in respect of the instruction of any person in matters relating to those services).

(2) For the purposes of this Article and Article 64B determining authorities are—

- (a) the Department; and
 - (b) so far as authorised by the Department to exercise the functions of determining authorities, any Health and Social Services Board or other person appointed by the Department in an instrument (referred to in this Article and Article 64B as an instrument of appointment).
- (3) An instrument of appointment—

- (a) may contain requirements with which a determining authority appointed by that instrument must comply in making determinations; and
- (b) may be contained in regulations.

(4) Subject to this Article and Article 64B, regulations may make provision about determining remuneration under paragraph (1) and may in particular impose requirements with which determining authorities must comply in making, or in connection with, determinations (including requirements as to consultation and publication).

(5) Regulations may provide—

- (a) that determinations may be made by reference to any of the following—
 - (i) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or to be fixed or determined, otherwise than by way of a determination under paragraph (1);
 - (ii) scales, indices or other data of any description specified in the regulations;
- (b) that any determination which in accordance with regulations made by virtue of sub-paragraph (a)(ii) falls to be made by reference to a scale or an index or to any other data may be made not only by reference to that scale or index or those data in the form current at the time of the determination but also by reference to the scale, index or data in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.

(6) Regulations may—

- (a) provide that determining authorities may make determinations which have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates;
- (b) provide that any determination which does not specify such a date shall have effect in relation to remuneration in respect of a period beginning—
 - (i) if it is required to be published, on the date of publication;
 - (ii) if it is not so required, on the date on which it is made.

(7) A reference in this Article or Article 64B to a determination is to a determination of remuneration under paragraph (1).

Part VI remuneration: supplementary

64B.—(1) Before a determination is made by the Department which relates to all persons who provide services of, or of a category falling within, one of the descriptions of services mentioned in Article 64A(1), the Department—

- (a) shall consult a body appearing to it to be representative of persons to whose remuneration the determination would relate; and
- (b) may consult such other persons as it considers appropriate.

(2) Determinations may make different provision for different cases including different provision for any particular case, class of case or area.

(3) Determinations may—

- (a) be made in more than one stage;
- (b) be made by more than one determining authority;
- (c) be varied or revoked by subsequent determinations.

(4) A determination may be varied—

- (a) to correct an error; or
- (b) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.

(5) Determinations may, in particular, provide that the whole or any part of the remuneration—

- (a) is payable only if the determining authority is satisfied as to certain conditions; or
- (b) is to be applied for certain purposes or is otherwise subject to certain conditions.

(6) Subject to Article 57(1), remuneration under Article 64A may consist of payments by way of—

- (a) salary;
- (b) fees;
- (c) allowances;
- (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services or instruction,

and may be determined from time to time.

(7) At the time a determination is made or varied, certain matters which require determining may be reserved to be decided at a later time.

(8) The matters which may be reserved include in particular—

- (a) the amount of remuneration to be paid in particular cases;
- (b) whether any remuneration is to be paid in particular cases.

(9) Any determination shall be made after taking into account all the matters which are considered to be relevant by the determining authority and such matters may include in particular—

- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination will relate) in connection with the provision of services of the description in Article 64A(1) to which the determination will relate or of any category falling within that description;
- (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services;
- (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons;
- (d) the extent to which it is desirable to encourage the provision, either generally or in particular places, of the description or category of services to which the determination will relate;
- (e) the desirability of promoting services which are—
 - (i) economic and efficient; and
 - (ii) of an appropriate standard.

(10) If the determination is of remuneration for a category of services falling within one of the descriptions of services mentioned in Article 64A(1), the reference in paragraph (9)(a) to a category of services is a reference to the same category of services or to any other category of services falling within the same description.”.

(2) This section and the associated repeals in Schedule 5 have effect in relation to—

- (a) the making of determinations after the coming into operation of this section; and
- (b) the variation or revocation after the coming into operation of this section of determinations whenever made,

and in this subsection “determinations” means determinations under Part VI of the principal Order of the remuneration to be paid to persons who provide services mentioned in Article 64A(1) of that Order.

Indemnity cover for Part VI services

41.—(1) After Article 64B of the principal Order there shall be inserted the following Article—

“Indemnity cover

64C.—(1) Regulations may make provision for the purpose of securing that, in prescribed circumstances, prescribed Part VI practitioners hold approved indemnity cover.

(2) The regulations may, in particular, make provision as to the consequences of a failure to hold approved indemnity cover, including provision—

- (a) for securing that a person is not to be added to any list unless he holds approved indemnity cover;
- (b) for the removal from a list prepared by a Health and Social Services Board of a Part VI practitioner who does not within a prescribed period after the making of a request by the Board in the prescribed manner satisfy that Board that he holds approved indemnity cover.

(3) For the purposes of this Article—

“approved body” means a person or persons approved in relation to indemnity cover of any description, after such consultation as may be prescribed, by the Department or by such other person as may be prescribed;

“approved indemnity cover” means indemnity cover made—

- (a) on prescribed terms; and
- (b) with an approved body;

“indemnity cover”, in relation to a Part VI practitioner (or person who proposes to provide Part VI services), means a contract of insurance or other arrangement made for the purpose of indemnifying him and any person prescribed in relation to him to any prescribed extent against any liability which—

- (a) arises out of the provision of Part VI services in accordance with arrangements made by him with a Health and Social Services Board under this Part; and
- (b) is incurred by him or any such person in respect of the death or personal injury of a person;

“list” has the same meaning as in paragraph 1(8) of Schedule 11;

“Part VI practitioner” means a person whose name is on a list;

“personal injury” means any disease or impairment of a person’s physical or mental condition and includes the prolongation of any disease or such impairment;

and a person holds approved indemnity cover if he has entered into a contract or arrangement which constitutes approved indemnity cover.

(4) The regulations may provide that a person of any description who has entered into a contract or arrangement which is—

- (a) in a form identified in accordance with the regulations in relation to persons of that description; and
- (b) made with a person or persons so identified,

is to be treated as holding approved indemnity cover for the purposes of the regulations.”.

(2) In Article 2(2) of the principal Order (interpretation) after the definition of “parental responsibility” there shall be inserted—

““Part VI services” means general medical services, general dental services, general ophthalmic services or pharmaceutical services;”.

(3) In Article 61(2)(b) of the principal Order (arrangements for general dental services) after “paragraphs (2A) and (2AA)” there shall be inserted “, to any provision made under Article 64C”.

(4) In Article 62(2)(b) of the principal Order (arrangements for general ophthalmic services) after “subject” there shall be inserted “to any provision made under Article 64C and”.

Local representative committees

42. For Article 55 of the principal Order (local representative committees) there shall be substituted—

“Recognition of local representative committees

55.—(1) A Health and Social Services Board may recognise a committee formed for its area which it is satisfied is representative of—

- (a) the medical practitioners providing general medical services or general ophthalmic services in that area;
- (b) those medical practitioners and the deputy medical practitioners for that area; or
- (c) the medical practitioners mentioned in—
 - (i) sub-paragraph (a); or
 - (ii) sub-paragraph (b),

and the Article 15B medical practitioners for that area,

and any committee so recognised shall be called the Local Medical Committee for the area.

(2) A Health and Social Services Board may recognise a committee formed for its area which it is satisfied is representative of—

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- (a) the dental practitioners providing general dental services in that area;
- (b) those dental practitioners and the deputy dental practitioners for that area; or
- (c) the dental practitioners mentioned in—
 - (i) sub-paragraph (a); or
 - (ii) sub-paragraph (b),and the Article 15B dental practitioners for that area,

and any committee so recognised shall be called the Local Dental Committee for the area.

(3) Where a Health and Social Services Board is satisfied that a committee formed for its area is representative—

- (a) of the ophthalmic opticians providing general ophthalmic services in that area, or
- (b) of the persons providing pharmaceutical services in that area,

the Health and Social Services Board may recognise that committee; and any committee so recognised shall be called the Local Optical Committee or the Local Pharmaceutical Committee, as the case may be, for the area concerned.

(4) Any committee recognised under this Article may with the approval of the Health and Social Services Board delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.

(5) For the purposes of this Article and Article 55A, a person who meets the condition in paragraph (6)—

- (a) is a deputy medical practitioner for the area of a Health and Social Services Board if he is a medical practitioner who assists a medical practitioner providing general medical services in that area in the provision of those services but is not himself on a list;
- (b) is an Article 15B medical practitioner for the area of a Health and Social Services Board if he is a medical practitioner who provides or performs personal medical services in accordance with arrangements made under Article 15B by the Health and Social Services Board (whether with himself or another);
- (c) is a deputy dental practitioner for the area of a Health and Social Services Board if he is a dental practitioner who assists a dental practitioner providing general dental services in that area in the provision of those services but is not himself on a list;

(d) is an Article 15B dental practitioner for the area of a Health and Social Services Board if he is a dental practitioner who provides or performs personal dental services in accordance with arrangements made under Article 15B by the Health and Social Services Board (whether with himself or another).

(6) The condition referred to in paragraph (5) is that the person concerned has notified the Health and Social Services Board that he wishes to be represented under this Article by the appropriate committee for its area (and has not notified it that he wishes to cease to be so represented).

(7) For the purposes of paragraph (5)—

(a) a person is to be treated as assisting a medical practitioner or dental practitioner in the provision of services if he is employed by that practitioner for that purpose or if he acts as his deputy in providing those services; and

(b) “list” has the same meaning as in paragraph 1(8) of Schedule 11.

Functions of local representative committees

55A.—(1) Regulations may require a Health and Social Services Board—

(a) in the exercise of its functions under this Part to consult committees recognised by it under Article 55;

(b) in the exercise of any of its functions which relate to arrangements under Article 15B to consult committees recognised by it under Article 55(1)(c) or (2)(c),

on such occasions and to such extent as may be prescribed.

(2) The power conferred by paragraph (1) is without prejudice to any other power to require a Health and Social Services Board to consult any committee recognised under Article 55.

(3) Committees recognised under Article 55 shall exercise such other functions as may be prescribed.

(4) A committee recognised for an area under paragraph (1)(b) or (c) or (2)(b) or (c) of Article 55 shall, in respect of each year, determine the amount of its administrative expenses for that year attributable—

(a) in the case of a committee recognised under paragraph (1)(b) or (c) (ii) of that Article, to the deputy medical practitioners for the area;

(b) in the case of a committee recognised under paragraph (1)(c) of that Article, to the Article 15B medical practitioners for the area;

(c) in the case of a committee recognised under paragraph (2)(b) or (c) (ii) of that Article, to the deputy dental practitioners for the area;

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(d) in the case of a committee recognised under paragraph (2)(c) of that Article, to the Article 15B dental practitioners for the area.

(5) A Health and Social Services Board may, on the request of any committee recognised under Article 55 for its area, allot to that committee such sums for defraying the committee's administrative expenses as may be determined by the Board.

(6) Any sums so allotted shall be out of the moneys available to the Health and Social Services Board for the remuneration of persons of whom the committee so recognised is representative and who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services, as the case may be, under this Part.

(7) The amount of any such sums shall be deducted from the remuneration of those persons in such manner as may be determined by the Health and Social Services Board.

(8) Where a committee has made a determination under paragraph (4), it shall apportion the amount so determined among the deputy medical practitioners, Article 15B medical practitioners, deputy dental practitioners or Article 15B dental practitioners, as the case may be, for the area and each such practitioner shall pay in accordance with the committee's directions the amount so apportioned to him.

(9) References in this Article to administrative expenses of a committee include references to travelling and subsistence allowances payable to its members; but the reference in paragraph (5) to a committee's administrative expenses does not include so much of the committee's administrative expenses as are determined under paragraph (4) to be attributable to any practitioners mentioned in that paragraph."