



2016 CHAPTER 26

PART 3

Miscellaneous Provisions

Persons performing primary dental services

9.—(1) Section 2(2) of the Act of 2008, which substitutes new Articles 61 to 61F of the Order of 1972, is amended as follows.

(2) Before the new Article 61F (persons providing general dental services), insert new cross-heading “Persons performing primary dental services”.

(3) In the new Article 61F—

(a) for the heading substitute “Persons performing primary dental services”;

(b) for paragraph (1) substitute—

“(1) Regulations may provide that a health care professional of a prescribed description may not perform any primary dental service for which the Regional Board is responsible unless that professional is included in a list maintained under the regulations by the Regional Board.”;

(c) for paragraph (2)(b) substitute—

“(b) the Regional Board is responsible for a primary dental service if it provides the service, or secures provision of the service, under or by virtue of Article 60A.”.

Ophthalmic services

10.—(1) In Article 62(2) of the Order of 1972 (arrangements for general ophthalmic services), after “shall include provision” insert—

- “(a) for the preparation and publication of lists of medical practitioners, and ophthalmic opticians respectively, who undertake to provide general ophthalmic services;
 - (b) for conferring a right, subject to any provision made under Article 64C and to the provisions of this Order relating to the disqualification of persons providing services, on any medical practitioner having the prescribed qualifications or ophthalmic optician who wishes to be included in the appropriate list, to be so included;
 - (c) for conferring on any medical practitioner, who is dissatisfied with a determination that he or she does not possess the qualifications prescribed under this Article, a right of appeal to a committee appointed by the Department, and for making provision for any matter for which it appears to the Department to be necessary or expedient to make provision in consequence of the conferring of that right;”.
- (2) Omit Article 62A of the Order of 1972.

Pharmaceutical services

11.—(1) Article 63AA of the Order of 1972 (persons providing pharmaceutical services) is amended as follows.

(2) Omit paragraph (1).

(3) In paragraphs (2) and (3), for “Regulations under paragraph (1)” substitute “Regulations under Article 63”.

(4) In paragraph (2), before sub-paragraph (a) insert—

“(za) for the preparation, publication and maintenance of lists of persons, other than medical practitioners or dental practitioners, who undertake to provide pharmaceutical services;”.

(5) After paragraph (3) insert—

“(3A) Regulations under Article 63 shall include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of paragraph (2) or (3).

(3B) Regulations under Article 63 shall be framed as to preclude—

- (a) a person included in a list under paragraph (2)(za), and
- (b) an employee of such a person,

from taking part in the decision whether an application such as is mentioned in paragraph (2)(b) should be granted or an appeal against such a decision brought by virtue of paragraph (3A) should be allowed.”.

(6) Omit paragraphs (4) and (5).

Disqualification by the Tribunal

12.—(1) Schedule 11 to the Order of 1972 (disqualification of persons providing Part 6 services) is amended as follows—

(a) for paragraph 1(2) substitute—

“(2) Subject to the provisions of this paragraph, if the Tribunal receives from the Regional Board representations that a person who has applied to be included in any list, or who is included in any list, meets any of the conditions for disqualification which may apply in that person’s case, the Tribunal must inquire into the case.”;

(b) for paragraph 1(6) substitute—

“(6) The first condition for disqualification is that—

(a) in relation to a list referred to in sub-paragraph (8)(a) or (c), the inclusion or continued inclusion of the person concerned in the list would be prejudicial to the efficiency of the services which those included in the list perform; or

(b) in relation to a list referred to in sub-paragraph (8)(d) or (e), the continued inclusion of the person concerned in the list would be prejudicial to the efficiency of the services which those included in the list undertake to provide.”;

(c) in paragraph 1(7A), at the beginning insert “Subject to sub-paragraph (7B),”;

(d) after paragraph 1(7A) insert—

“(7B) The third condition for disqualification only applies to cases where a person is included in, or has applied to be included in, a list referred to in paragraph (8)(a) or (c).”;

(e) in paragraph 1(8)(c), omit “and bodies corporate”;

(f) for paragraph 1(8)(d) substitute—

“(d) a list of medical practitioners and ophthalmic opticians undertaking to provide general ophthalmic services;”;

(g) for paragraph 1(8)(e) substitute—

“(e) a list of persons undertaking to provide pharmaceutical services;”;

(h) in paragraph 1(8A), for “sub-paragraph (8)(a)” substitute “sub-paragraph (8)”;

(i) in paragraph 2(1), omit “or, as the case may be, the third condition for disqualification”;

(j) omit paragraph 2(1A);

(k) in paragraph 2(3)(a), omit “, assisting in providing,”;

- (l) in paragraph 2(3)(b), omit “assistance in the provision”;
 - (m) for paragraph 3(2) substitute—
 - “(2) The Tribunal must disqualify the person for inclusion in the list to which the case relates.”;
 - (n) in paragraph 4(2)(c)(i), omit “, undertakes to provide or assists in providing”;
 - (o) in paragraph 4(5)(aa), for “, 61F, 62A or 63AA” substitute “ or 61F”;
 - (p) in paragraph 5(4), after “providing,” insert “approved to assist in providing”;
 - (q) in paragraph 7(1)(a), for “, approved to assist in providing or approved to perform” substitute “or approved to assist in providing”;
 - (r) in paragraph 9(8), for “61F, 62A or 63A,” substitute “or 61F”.
- (2) Until the coming into operation of section 2 of the Act of 2008, Schedule 11 to the Order of 1972 (as amended by subsection (1)) has effect with the following modifications—
- (a) in paragraph 1(6)(a), omit “or (c)”;
 - (b) in paragraph 1(6)(b), for “(d) or (e)” substitute “(c), (d) or (e)”;
 - (c) in paragraph 1(7B), omit “or (c)”;
 - (d) for paragraph 1(8)(c) substitute—
 - “(c) a list of dental practitioners undertaking to provide general dental services”

Provision of medical or dental services: Article 15B arrangements

13.—(1) In Article 15B(4) of the Order of 1972, after “in relation to” insert “primary medical services or”.

(2) For Article 15C(1)(b)(iii) of the Order of 1972 substitute—

“(iii) an individual who is providing services—

- (A) under a general medical services contract or a general dental services contract;
- (B) in accordance with Article 15B arrangements, section 92 arrangements, section 107 arrangements, section 50 arrangements, section 64 arrangements or section 17C arrangements; or
- (C) under section 17J or 25 of the National Health Service (Scotland) Act 1978, section 84 or 100 of the National Health Service Act 2006 or section 42 or 57 of the National Health Service (Wales) Act 2006;

or has so provided them within such period as may be prescribed;”.

(3) In Article 15C(2) of the Order of 1972—

- (a) in the definition of “HSC employee”—
 - (i) in paragraph (bc) for “(1)(bc)(iii)” substitute “(1)(b)(iii)(C)”;
 - (ii) at the end of paragraph (bc) add “or (1)(c)(iii)(C)”;
 - (b) in the definition of “qualifying body”, in paragraph (b) for “personal dental services” substitute “primary dental services”;
 - (c) at the appropriate place alphabetically insert—
 - ““section 17C arrangements” means arrangements for the provision of services under section 17C of the National Health Service (Scotland) Act 1978;”;
 - ““section 92 arrangements” means arrangements for the provision of services under section 92 of the National Health Service Act 2006;”;
 - ““section 107 arrangements” means arrangements for the provision of services under section 107 of the National Health Service Act 2006;”;
 - ““section 50 arrangements” means arrangements for the provision of services under section 50 of the National Health Service (Wales) Act 2006;”;
 - ““section 64 arrangements” means arrangements for the provision of services under section 64 of the National Health Service (Wales) Act 2006;”;
 - (d) omit the definition of “section 28C employee”.
 - (4) Omit Article 15D(3)(j) of the Order of 1972.
 - (5) In section 5(3) of the Act of 2008, in the substituted Article 15C(1)(c) of the Order of 1972, for head (iii) substitute—
 - “(iii) an individual who is providing services—
 - (A) under a general dental services contract or a general medical services contract;
 - (B) in accordance with Article 15B arrangements, section 92 arrangements, section 107 arrangements, section 50 arrangements, section 64 arrangements or section 17C arrangements; or
 - (C) under section 17J or 25 of the National Health Service (Scotland) Act 1978, section 84 or 100 of the National Health Service Act 2006 or section 42 or 57 of the National Health Service (Wales) Act 2006;
- or has so provided them within such period as may be prescribed;”.

Charges for services provided to persons not ordinarily resident in Northern Ireland

14. In Article 42(2) of the Order of 1972 (provision of services to persons not ordinarily resident in Northern Ireland), after “the Department may,” insert “subject to such exemptions as may be prescribed and”.