
STATUTORY INSTRUMENTS

1972 No. 1265

Health and Personal Social Services (Northern Ireland) Order 1972

PART II

MAIN FUNCTIONS OF THE MINISTRY

General duty of Ministry

4. ^{F1}

F1 Art. 4 repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), Sch. 6 para. 3(3), [Sch. 7](#); S.R. 2009/114, [art. 2](#)

Provision of accommodation and medical services, etc.

5.—(1) The Ministry shall provide throughout Northern Ireland, to such extent as it considers necessary, accommodation and services of the following descriptions—

- (a) hospital accommodation, including accommodation within the meaning of ^{F2} Article 110 of the Mental Health Order];
- (b) premises, other than hospitals, at which facilities are available for all or any of the services provided under this Order ^{F3} or the 2009 Act];
- (c) medical, nursing and other services whether in such accommodation or premises, in the home of the patient or elsewhere.

(2) In addition to its functions under paragraph (1), the Ministry may provide such other accommodation and services not otherwise specifically provided for by this Order ^{F3} or the 2009 Act] as it considers conducive to efficient and sympathetic working of any hospital or service under its control, and, in relation to any person and notwithstanding anything contained in ^{F4} section 2(1) (a) of the 2009 Act], to provide or arrange for the provision of such accommodation or services, and in connection therewith, to incur such expenditure as is necessary or expedient on medical grounds.

(3) Where accommodation or premises provided under this Article afford facilities for the provision of ^{F5} primary medical services, of general] dental or ophthalmic services or of pharmaceutical services, they shall be made available for those services on such terms and conditions as the Ministry may determine.

(4) The Ministry may permit any person to whom this paragraph applies to use for the purpose of private practice, on such terms and conditions as the Ministry may determine, the facilities available at accommodation or premises provided under this Article.

(5) The persons to whom paragraph (4) applies, being persons who provide services (4) under this Order ^{F3} or the 2009 Act], are as follows:—

- (a) medical practitioners;

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- [^{F5}(aa) persons providing primary medical services under a general medical services contract or in accordance with Article 15B arrangements;]
- (b) dental practitioners;
 - (c) ophthalmic^{F6} . . . opticians;
 - (d) pharmacists; and
 - (e) such other persons as the Ministry may determine.

F2 1986 NI 4

F3 Words in art. 5 inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), s. 34(3), **Sch. 6 para. 3(4)(a)**; S.R. 2009/114, **art. 2**

F4 Words in art. 5(2) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), s. 34(3), **Sch. 6 para. 3(4)(b)**; S.R. 2009/114, **art. 2**

F5 2004 NI 2

F6 1984 NI 8

Provision of general [^{F7}health care]

6.—[^{F8}(1)] The Ministry shall secure the provision of [^{F8} primary medical services, of general] dental and ophthalmic services and of pharmaceutical services in accordance with Part VI.

[^{F8}(2) Services provided under Article 56(2) or under a general medical services contract are to be regarded as provided by the Department in pursuance of its functions under paragraph (1).]

F7 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), s. 34(3), **Sch. 6 para. 1(1)(b)**; S.R. 2009/114, **art. 2**

F8 2004 NI 2

Prevention of illness, care and after-care

7.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the purposes of the prevention of illness, the care of persons suffering from illness or the after-care of such persons.

(2) The Ministry may recover from persons availing themselves of any service provided by the Ministry under this Article, otherwise than in a hospital, such charges (if any) in respect of the service as the Ministry considers appropriate.

[^{F9}(3) No arrangements made under paragraph (1) may be given effect to in relation to a person to whom section 115 of the Immigration and Asylum Act 1999 applies solely—

- (a) because he is destitute; or
- (b) because of the physical effects, or anticipated physical effects, of his being destitute.

^{F10}(3A) Subsections (3) and (5) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of paragraph (3) as they apply for the purposes of that section, but for the references in subsections (5) and (7) of that section and in paragraph 2 of that Schedule to the Secretary of State substitute references to the Department.]

F9 1999 c.33

F10 prosp. subst. by 2002 c. 41

Care of mothers and young children

8.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the care, including in particular the medical and dental care, of expectant and nursing mothers, and of young children.

(2) The Ministry may recover from persons availing themselves of any service provided by the Ministry under this Article, otherwise than in a hospital, such charges (if any) in respect of the service or articles provided in connection with the service as the Ministry considers appropriate.

Medical and dental inspection, etc., of school children and young persons

9.—(1) Subject to paragraph (4), the Ministry shall provide for the medical^{F11} . . . inspection, at appropriate intervals, and for the medical^{F11} . . . supervision of persons—

- (a) in full-time attendance at any grant-aided school or for whom special arrangements have been made^{F12} under^{F13} Article 86 of the Education (Northern Ireland) Order 1998] or Article 10(1)(b) of the Education (Northern Ireland) Order 1996];

Sub-para. (b) rep. by 1987 NI 2

[^{F11}(1A) Subject to paragraph (4), the Department shall provide, to such extent as it considers necessary to meet all reasonable requirements—

- (a) for the dental inspection of such persons as are mentioned in paragraph (1);
- (b) for the dental supervision of such persons; and
- (c) for the education of such persons in dental health.]

(2) For the purpose of securing the proper medical and dental inspection of persons such as are mentioned in paragraph (1)(a) the Ministry may require the parents of any such persons to submit the persons for medical or dental inspection in accordance with arrangements made by the Ministry, and any parent who fails without reasonable excuse to comply with any such requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F14} £50].

(3) Subject to paragraph (4), the Ministry shall make such arrangements as are necessary for securing that there are available for persons such as are mentioned in paragraph (1) comprehensive facilities for medical and dental treatment.

(4) [^{F11}Paragraphs (1), (1A)] and (3) shall not apply in the case of persons in attendance at any voluntary grammar school the managers of which have, by means of a scheme framed by them and approved by the Ministry, made provision for the medical and dental inspection, supervision and treatment of persons in attendance at that school^{F11} and for the education of such persons in dental health].

(5) The managers of a voluntary grammar school to which paragraph (4) applies shall keep such records, and shall make such returns, as the Ministry may prescribe or direct.

(6) In any case where the managers of a voluntary grammar school^{F11} make, by means of a scheme approved by the Department, such provision as is mentioned in paragraph (4), then, in respect of each person for whom any service is provided under such provision,] the Ministry shall pay to the managers such sum as it may determine.

(7) The Ministry may, with the consent of the proprietor of any independent school, and on such financial and other terms (if any) as may be agreed between the Ministry and the proprietor of the school, make arrangements for the provision of medical and dental inspection, supervision and treatment of persons in attendance at the school^{F11} and for the education of such persons in dental health]; so however that any such arrangements shall be such as to secure, so far as is practicable, that the expense incurred by the Ministry in connection with the provision under the arrangements

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of any service shall not exceed the expense which would have been incurred by it in the provision thereof if the persons had been persons in attendance at a grant-aided school.

(8) In this Article—

“dental inspection” and “dental supervision” mean, respectively, inspection and supervision by a dental practitioner;

“dental treatment” includes prevention and treatment of dental disease by or (so far as permitted by law) under the direction of a dental practitioner and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any person other than a person for whom special arrangements have been made^{F12} as mentioned in paragraph (1)(a)^{F15}. . . , include treatment in that person's home;

“medical inspection” and “medical supervision” mean, respectively, inspection and supervision by or under the direction of a medical practitioner;

“medical treatment” includes prevention and treatment of disease by a medical practitioner, and the supply of appliances on the recommendation of such practitioner, but does not, in relation to any person other than a person for whom special arrangements have been made^{F12} as mentioned in paragraph (1)(a)^{F15}. . . , include treatment in that person's home.

F11 1988 NI 24

F12 1996 NI 1

F13 1998 NI 13

F14 1984 NI 3

F15 1987 NI 2

Ancillary services

10.—(1) Without prejudice to the generality of Article 5 the Ministry shall make arrangements, to such extent as it considers necessary, for—

- (a) providing or securing the provision of ambulances and other means of transport for the conveyance of persons suffering from illness, expectant or nursing mothers or of other persons for whom such transport is reasonably required in order to avail themselves of any service under this Order [^{F16}or the 2009 Act];
- (b) providing or securing the provision of a laboratory service for the purpose of the prevention or cure or restriction of the incidence of disease, or the promotion of the health of the people;
- (c) providing or securing the provision of a service of diagnostic radiology; and
- (d) making available to medical practitioners and other persons who require them supplies of human blood for the purpose of carrying out blood transfusion or supplies of any other substances or preparations not readily obtainable.

(2) The Ministry shall determine the terms, including terms as to the payment of charges, and conditions on which the several services referred to in paragraph (1) shall be provided.

F16 Words in art. 10(1)(a) inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 3\(5\)](#); S.R. 2009/114, [art. 2](#)

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Vaccination and immunisation

11.—(1) The Ministry may make arrangements with medical practitioners for the vaccination or immunisation of persons against any disease, either by medical practitioners or by persons acting under their direction and control.

(2) In making arrangements under this Article, the Ministry shall, in so far as is reasonably practicable, give every medical practitioner providing^[F17] primary medical services] under Part VI^[F18] and every person providing, and every medical practitioner performing,^[F17] primary medical services] in accordance with Article 15B arrangements] an opportunity to provide services under this Article.

(3) The Ministry may, either directly or by entering into arrangements with such persons as it thinks fit, supply free of charge to medical practitioners providing services under this Article vaccines, sera or other substances for vaccinating or immunising persons against any disease.

F17 2004 NI 2

F18 1997 NI 7

Family planning

12.—(1) The Ministry shall make arrangements, to such extent as it considers necessary, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances or appliances.

(2) The Ministry may recover from persons availing themselves of any service under this Article such charges (if any) as the Ministry considers appropriate.

Educational and research facilities

13. The Ministry shall make available such facilities, in any premises provided by it under this Order ^[F19]or the 2009 Act], as appear to the Ministry to be reasonably required for under-graduate and post-graduate clinical teaching and research.

F19 Words in art. 13 inserted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), s. 34(3), [Sch. 6 para. 3\(5\)](#); S.R. 2009/114, [art. 2](#)

Health education

14. The Ministry may disseminate, by whatever means it thinks fit, information relating to the promotion and maintenance of health and the prevention of illness.

^[F20]Arrangements for provision of ^[F21]health care] by other bodies or persons

14A.—(1) The Department may make arrangements for the provision by any other body or person of any of the ^[F21]health care] on such terms and conditions as may be agreed between the Department and that other body or person.

(2) The Department may assist any body or person carrying out any arrangements under paragraph (1) by—

- (a) permitting that body or person to use premises belonging to the Department;
- (b) making available vehicles, equipment, goods or materials; and

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(c) making available the services of any staff who are employed in connection with the premises or other things which the Department permits the body or person to use, on such terms and conditions as may be agreed between the Department and that body or person.]

F20 1992 NI 20

F21 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 1\(1\)\(b\)](#); S.R. 2009/114, [art. 2](#)

[^{F22}Reimbursement of the cost of health care services secured in another EEA state [^{F23}where expenditure was incurred on or after 10th May 2012 but before 27th December 2013]

14B.—(1) The Department must, on an application being made by or on behalf of an eligible person, reimburse the amount of any qualifying EEA expenditure incurred by or on behalf of the person, on or after 10th May 2012.

[^{F24}(1A) But the duty in paragraph (1) does not apply where Article 14D applies (qualifying EEA expenditure incurred on or after 27th December 2013).]

(2) The duty under paragraph (1) is subject to—

- (a) the exceptions in paragraphs (4) and (5);
- (b) any limit applicable under paragraph (7);
- (c) any restriction applicable under paragraph (8); and
- (d) any deduction applicable under paragraph (9).

(3) For the purpose of this Article, “qualifying EEA expenditure” is expenditure incurred on the provision, by an authorised provider in an EEA state other than the United Kingdom, of a service which is necessary to treat or diagnose a medical condition of the eligible person and is also—

- (a) a service—
 - (i) which is the same as or equivalent to health care that the Department would make or have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person’s case; and
 - (ii) which is not a special service;
- (b) a special service for which the Department has given prior authorisation under Article 14C; or
- (c) a service—
 - (i) which is neither the same as nor equivalent to health care that the Department would so make or have made available to the eligible person;
 - (ii) which is not a special service; and
 - (iii) for which the Department has given prior authorisation under that Article.

(4) The duty under paragraph (1) does not apply where the qualifying EEA expenditure was incurred in connection with an arrangement which was entered into by or on behalf of the eligible person in the course of business and under which the applicant for reimbursement has gained or might be expected to gain any financial benefit.

(5) This Article does not apply in circumstances where Article 20 or 27(3) of Regulation (EC) No. 883/2004 applies.

(6) Paragraphs (7), (8) and (9) apply where the service is the same as or equivalent to health care that the Department would have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person’s case.

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- (7) The Department may limit the amount of any reimbursement under paragraph (1)—
- (a) as respects health care other than a dental service, to the cost that the Department would have incurred if the same or an equivalent service had been made available by it; and
 - (b) as respects a dental service, to the amount that would have been payable in respect of the same or an equivalent service if the service had been made available by the Department.
- (8) Where the same or an equivalent service referred to in paragraph (7)(b) would have required approval from the Dental Committee, the Department—
- (a) may require the applicant to submit evidence as to the clinical necessity of the dental service; and
 - (b) may decline to reimburse the cost of any service which was not clinically necessary.
- (9) The Department may deduct from any amount to be reimbursed under paragraph (1) in whole or in part the amount of any health care charge which would have been payable for the same service or an equivalent service if the service had been made available by the Department; and in determining for this purpose the amount of any health care charge regard shall be had to any entitlement the eligible person would have had—
- (a) to any payment or contribution by virtue of regulations made under paragraph 2A(1) or (4) of Schedule 15; or
 - (b) to any remission or repayment by virtue of regulations made under paragraphs 1(b) and 1B of Schedule 15.
- (10) The Department may determine—
- (a) the form in which an application under this Article must be made; and
 - (b) the information to be provided in support of the application.
- (11) In this Article and Article 14C—
- “authorised provider”, in relation to any service provided in an EEA state other than the United Kingdom, means a person who is lawfully providing that service;
- “Dental Committee” means the Dental Committee constituted under regulation 30 of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993;
- “eligible person” means a person who is ordinarily resident in Northern Ireland;
- “health care charge” means a charge payable by virtue of this Order or Article 20(1) of the Health Services (Primary Care) (Northern Ireland) Order 1997;
- “special service” means—
- (a) a service that involves a stay in hospital accommodation for at least one night;
 - (b) medical treatment that involves general anaesthesia, epidural anaesthesia or intravenously administered sedation;
 - (c) dental treatment that involves general anaesthesia or intravenously administered sedation; or
 - (d) a service the provision of which involves the use of specialised or cost-intensive medical infrastructure or medical equipment;
- “service” includes any goods, including drugs, medicines and appliances, which are used or supplied in connection with the provision of a service, but does not include accommodation other than hospital accommodation.

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- F23** Words in art. 14B heading added (27.12.2013) by [The Health Services \(Cross-Border Health Care\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/299\)](#), regs. 1(1), **8(1)(a)**
- F24** Art. 14B(1A) inserted (27.12.2013) by [The Health Services \(Cross-Border Health Care\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/299\)](#), regs. 1(1), **8(1)(b)**

Prior authorisation for the purposes of Article 14B(3)(b) or (c)

14C.—(1) A person may apply to the Department for prior authorisation for the purposes of Article 14B(or (c).

(2) The Department must grant an application for prior authorisation for the provision of health care which is a special service where—

- (a) the requested service is the same as or equivalent to health care that the Department would make or have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person’s case; and
- (b) it cannot provide to the eligible person concerned, within a medically justifiable period, health care which is the same as or equivalent to the requested service.

(3) The Department need not but may grant an application for prior authorisation for the provision of health care which is—

- (a) a special service (which does not fall within paragraph (2)); or
- (b) a service mentioned in Article 14B(3)(c).

(4) For the purposes of paragraph (2), “a medically justifiable period” means a period which is justifiable on the basis of medical evidence as to the eligible person’s clinical needs, taking into account—

- (a) the person’s state of health at the time the decision under this Article is made;
- (b) the probable course of the medical condition to which the requested service relates; and
- (c) the other matters to which the Department is to have regard in assessing the case.

(5) The other matters include—

- (a) the eligible person’s medical history;
- (b) the extent of any pain, disability, discomfort or other suffering that is attributable to the medical condition to which the service is to relate;
- (c) whether any such pain, disability, discomfort, or suffering makes it impossible or extremely difficult for the person to carry out ordinary daily tasks; and
- (d) the extent to which the provision of the service would be likely to alleviate, or enable the alleviation of, any such pain, disability, discomfort or suffering.

(6) The Department may determine—

- (a) the form in which an application under this Article must be made; and
- (b) the information to be provided in support of the application.

(7) Any authorisation under this Article must be in writing.]

- F22** Arts. 14B, 14C inserted (10.5.2012) by [The Health Care \(Reimbursement of the Cost of EEA Services etc.\) Regulations \(Northern Ireland\) 2012 \(S.R. 2012/167\)](#), regs. 1, **4(2)**

[^{F25}Reimbursement of the cost of health services secured in another EEA state where expenditure occurred on or after 27th December 2013

14D.—(1) This Article applies where qualifying EEA expenditure is incurred by or on behalf of an eligible person on or after 27th December 2013 (but see paragraphs (9) and (14)).

(2) The Department must, on an application being made by or on behalf of an eligible person, reimburse the amount of the qualifying EEA expenditure incurred by or on behalf of the person.

(3) The duty under paragraph (2) is subject to—

- (a) the exceptions in paragraphs (8) and (9);
- (b) any limit applicable under paragraph (11);
- (c) any deduction applicable under paragraph (12).

(4) For the purpose of this Article, “qualifying EEA expenditure” is expenditure incurred on the provision, by an authorised provider, in an EEA state other than the United Kingdom, of a service as respects which Condition A or B is met.

(5) Condition A is that—

- (a) the service was necessary to treat or diagnose a medical condition of the eligible person;
- (b) the service is the same as or equivalent to a service that the Department would make or have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person’s case; and
- (c) where it falls within paragraph (6), the Department had given authorisation under Article 14E(4)(a) for the provision of the service to the eligible person before the service was provided.

(6) A service falls within this paragraph if—

- (a) it is subject to planning requirements relating to the objective of ensuring sufficient and permanent access to a balanced range of high quality treatment, or to the wish to control costs and avoid (as far as possible) any waste of financial, technical and human resources, and—
 - (i) it involves a stay in hospital accommodation for at least one night; or
 - (ii) it requires the use of highly specialised and cost-intensive medical infrastructure or medical equipment;
- (b) it involves treatments presenting a particular risk for the eligible person or the population; or
- (c) it is provided by a health care provider that, on a case-by-case basis, could give rise to serious and specific concerns relating to the quality or safety of the care, with the exception of a service which is subject to European Union legislation ensuring a minimum level of safety and quality throughout the European Union.

(7) Condition B is that, before the service was provided, the Department had given authorisation under Article 14E(4)(b) for its provision to the eligible person.

(8) The duty in paragraph (2) does not apply where the qualifying EEA expenditure was incurred in connection with an arrangement which was entered into by or on behalf of the eligible person in the course of business and under which the applicant for reimbursement has gained or might be expected to gain any financial benefit.

(9) This Article does not apply in circumstances where Article 20 or 27(3) of Regulation (EC) No 883/2004 applies.

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(10) Paragraphs (11) and (12) apply where the service is the same as or equivalent to a service that the Department would have made available to the eligible person under this Order or the 2009 Act in the circumstances of the person's case.

(11) The Department may limit the amount of any reimbursement under this Article to the cost that it would have incurred if the same or an equivalent service had been made available by it.

(12) The Department may deduct from the amount of any reimbursement under paragraph (2) the amount of any health care charge which would have been payable for the same service or an equivalent service if the service had been available by the Department; and in determining for this purpose the amount of any health care charge regard shall be had to any entitlement the eligible person would have had—

- (a) to any payment or contribution by virtue of regulations made under paragraph 2A(1) or (4) of Schedule 15; or
- (b) to any remission or repayment by virtue of regulations made under paragraphs 1(b) and 1B of that Schedule.

(13) The Department may determine—

- (a) the form in which an application under this Article must be made; and
- (b) the information to be provided in support of the application.

(14) This Article does not apply where expenditure is incurred in Iceland, Liechtenstein or Norway before Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare applies to those States in accordance with the EEA agreement.

(15) In this Article and Article 14E, "authorised provider", "eligible person", "health care charge" and "service" each have the meaning given in Article 14B.

F25 Arts. 14D,14E inserted (27.12.2013) by [The Health Services \(Cross-Border Health Care\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/299\)](#), regs. 1(1), **8(2)**

Prior authorisation for the purposes of Article 14D(5)(c) and (7)

14E.—(1) A person may apply to the Department under this Article for prior authorisation for the purposes of Article 14D(or (7) in relation to the provision of a service ("the requested service") to an eligible person.

(2) The requested service must be—

- (a) a service as respects which Condition A, mentioned in paragraph (5) of Article 14D, is satisfied and which falls within paragraph (6) of that Article; or
- (b) a service that is neither the same as nor equivalent to a service that the Department would make available to the eligible person under this Order or the 2009 Act in the circumstances of the person's case.

(3) The Department may determine—

- (a) the form in which an application under this Article must be made; and
- (b) the information to be provided in support of this application.

(4) The Department—

- (a) must authorise the provision of the requested service if it is a service mentioned in paragraph (2)(a) (but see paragraph (5)); and
- (b) may authorise the provision of the requested service in any case where—

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- (i) the requested service is necessary to treat or diagnose a medical condition of the eligible person; and
 - (ii) the duty in paragraph (a) does not apply.
- (5) The duty in paragraph (4)(a) does not apply if at least one of the following conditions is met—
- (a) the eligible person will, according to a clinical evaluation, be exposed with reasonable certainty to a patient-safety risk that cannot be regarded as acceptable, taking into account the potential benefit for the person of the requested service;
 - (b) the general public will be exposed with reasonable certainty to a substantial safety hazard as a result of the requested service;
 - (c) the requested service is to be provided by a health care provider that raises serious and specific concerns relating to the respect of standards and guidelines on quality of care and patient safety, including provisions on supervision, whether these standards and guidelines are laid down by laws or regulations or through accreditation systems established by the member State in which the service will be provided;
 - (d) the Department can provide to the eligible person a service that is the same as or equivalent to the requested service within a period of time that is medically justifiable, taking into account the patient's state of health at the time the decision under paragraph (4)(a) is made and the probable course of the medical condition to which the service relates.
- (6) The matters to which the Department is to have regard in determining for the purpose of paragraph (5)(d) whether the length of any delay is medically justifiable include—
- (a) the eligible person's medical history;
 - (b) the extent of any pain, disability, discomfort or other suffering that is attributable to the medical condition to which the service is to relate;
 - (c) whether any such pain, disability, discomfort or suffering makes it impossible or extremely difficult for the eligible person to carry out ordinary daily tasks; and
 - (d) the extent to which the provision of the service would be likely to alleviate, or to enable the alleviation of the pain, disability, discomfort or suffering.
- (7) Any authorisation under paragraph (4) must be in writing.]

F25 Arts. 14D,14E inserted (27.12.2013) by [The Health Services \(Cross-Border Health Care\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/299\)](#), regs. 1(1), **8(2)**

General social welfare

15.—^{F26}(1) In the exercise of its functions under [^{F27}section 2(1)(b) of the 2009 Act] the Ministry shall make available advice, guidance and assistance, to such extent as it considers necessary, and for that purpose shall make such arrangements and provide or secure the provision of such facilities (including the provision or arranging for the provision of residential or other accommodation, home help and laundry facilities) as it considers suitable and adequate.

[^{F28}(1A) Arrangements under paragraph (1) may include arrangements for the provision by any other body or person of any of the [^{F29}social care] on such terms and conditions as may be agreed between the Department and that other body or person.

(1B) The Department may assist any body or person carrying out any arrangements under paragraph (1) by—

- (a) permitting that body or person to use premises belonging to the Department;
- (b) making available vehicles, equipment, goods or materials; and

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(c) making available the services of any staff who are employed in connection with the premises or other things which the Department permits the body or person to use, on such terms and conditions as may be agreed between the Department and that body or person.]

(2) Assistance under paragraph (1) may be given to, or in respect of, a person in need requiring assistance in kind or, in exceptional circumstances constituting an emergency, in cash; so however that before giving assistance to, or in respect of, a person in cash the Ministry shall have regard to his eligibility for receiving assistance from any other statutory body, and, if he is so eligible, to the availability to him of that assistance in his time of need.

(3) Where under paragraph (1) the Ministry makes arrangements or provides or secures the provision of facilities for the engagement of persons in need (whether under a contract of service or otherwise) in suitable work, the Ministry may assist such persons in disposing of the produce of their work.

(4) ^{F30} . . . the Ministry may recover in respect of any assistance, help or facilities under this Article such charges (if any) as the Ministry considers appropriate.

[^{F30}(5) In so far as it relates to the provision of accommodation, this Article is subject to Articles 36, ^{F31} . . . and 99.]

[^{F32}(6) Assistance may not be provided under paragraph (1) in respect of any person to whom section 115 of the Immigration and Asylum Act 1999 applies if his need for assistance has arisen solely—

- (a) because he is destitute, or
- (b) because of the physical effects, or anticipated physical effects, of his being destitute.

^{F33}(7) Subsections (3) to (8) of section 95 of the Immigration and Asylum Act 1999, and paragraph 2 of Schedule 8 to that Act, apply for the purposes of paragraph (6) as they apply for the purposes of that section, but for references to the Secretary of State in subsections (5) and (7) of that section and in paragraph 2 of that Schedule substitute references to the Department.]

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|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| F26 | 1978 NI 26; 1978 c.53 |
| F27 | Words in art. 15(1) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(6) ; S.R. 2009/114, art. 2 |
| F28 | 1992 NI 20 |
| F29 | Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 1(1)(a) ; S.R. 2009/114, art. 2 |
| F30 | 1991 NI 1 |
| F31 | 2002 c. 5 (NI) |
| F32 | 1999 c.33 |
| F33 | prosp. subst. by 2002 c. 41 |

Art. 15A. rep. by 2002 c.6(NI)

[^{F34} Provision of primary medical services or personal dental services]

F34	2004 N.I. 2
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[^{F35} **Primary medical services or personal dental services**]

15B.—(1) A Health and Social Services Board may make one or more agreements with respect to its area, in accordance with the provisions of regulations under Article 15D, under which—

- (a) [^{F36}primary medical services] are provided (otherwise than by the Board); or

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- (b) personal dental services are provided (otherwise than by the Board).
- (2) An agreement made under this Article—
- (a) may not combine arrangements for the provision of [^{F36}primary medical services] with arrangements for the provision of personal dental services; but
- (b) may include arrangements for the provision of [^{F37}health care]—
- (i) which are not [^{F36}primary medical services] or personal dental services; but
- (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
- sub-para. (a) rep. by 2004 NI 2*
- (b) a patient for whom personal dental services are provided under an agreement made under this Article is not to count as a person for whom arrangements must be made by the Health and Social Services Board concerned under Article 61.
- (4) This Order has effect, in relation to ^{F36} . . . personal dental services provided under an agreement made under this Article, as if those services were provided as a result of the delegation by the Department (by directions given under Article 17) of functions of the Department ^{F38}
- (5) The functions of a Health and Social Services Board in relation to an agreement made under this Article are primary functions of the Board for the purposes of Article 9 of the 1991 Order.
- (6) For the purposes of this Article—
- Definition rep. by 2004 NI 2*
- "personal dental services" means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part VI.

F35 Arts. 15B, 15C and preceding cross-heading inserted (1.4.2004 for certain purposes) by [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(S.I. 1997/1177\)](#), **arts. 1(2), 21**; S.R. 2004/133, **art. 2(1)**

F36 2004 NI 2

F37 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), **Sch. 6 para. 1(1)(b)**; S.R. 2009/114, **art. 2**

F38 Words in art. 15B(4) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), **Sch. 7**; S.R. 2009/114, **art. 2**

^{F39} Persons with whom agreements may be made

15C.—(1) A Health and Social Services Board may make an agreement under Article 15B only with one or more of the following—

- (a) an [^{F40}HSC trust];
- (b) in the case of an agreement under which primary medical services are provided—
- (i) a medical practitioner who satisfies the prescribed conditions;
- (ii) a health care professional who satisfies the prescribed conditions;
- (iii) an individual who is providing services—
- (A) under a general medical services contract;
- (B) in accordance with Article 15B arrangements, section 28C arrangements or Article 17C arrangements; or
- (C) under section 28Q of the National Health Service Act 1977 or section 19 of the National Health Service (Scotland) Act 1978;

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

- (c) in the case of an agreement under which personal dental services are provided—
 - (i) a qualifying dental practitioner;
 - (ii) an individual who is providing personal dental services in accordance with Article 15B arrangements;
- (d) an ^{F41}[HSC employee] or an Article 15B employee;
- (e) a qualifying body.

^{F42}(1A) The power under paragraph (1) to make an agreement with a person falling within sub-paragraph (b)(iii), or (in the case of an agreement under which primary medical services are provided), sub-paragraph (d), of that paragraph is subject to such conditions as may be prescribed.]

(2) In this Article—

^{F42c}“Article 15B employee” means a person who, in connection with the provision of services in accordance with Article 15B arrangements, is employed by an individual providing or performing those services;]

^{F42c1}“health care professional” means a member of a profession which is regulated by a body mentioned (at the time the agreement is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17);]

“^{F41}[HSC employee]” means an individual who, in connection with the provision of ^{F43}[health care]^{F42} in Northern Ireland, England and Wales or Scotland], is employed by—

- (a) an ^{F40}[HSC trust]^{F42} in Northern Ireland, or an NHS trust or NHS foundation trust in England and Wales];
- (b) ^{F42}a Health and Social Services Board in Northern Ireland, ^{F44}... a Local Health Board in Wales or a Health Board in Scotland;
- (bb) a person who is providing services under a general medical services contract;
- (bc) an individual who is providing services as specified in paragraph (1)(bc)(iii);]
- (c) in the case of an agreement under which personal dental services are provided—
 - (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under Article 61(2)(a); or
 - (ii) a dental practitioner who is providing personal dental services in accordance with Article 15B arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraphs (a) to (d) of paragraph (1); and also
- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under Article 15D(2)(b);

^{F42} . . .

^{F42c}“section 17C employee” means a person who, in connection with the provision of services in accordance with arrangements under section 17C of the National Health Service (Scotland) Act 1978, is employed by an individual providing or performing those services;]

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[^{F42}“section 28C employee” means a person who, in connection with the provision of services in accordance with arrangements under section 28C of the National Health Service Act 1977, is employed by an individual providing or performing those services;]

^{F42} . . .

- F39** Arts. 15B, 15C and preceding cross-heading inserted (1.4.2004 for certain purposes) by [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(S.I. 1997/1177\)](#), **arts. 1(2)**, 21; S.R. 2004/133, **art. 2(1)**
- F40** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), **Sch. 6 para. 1(1)(d)**; S.R. 2009/114, **art. 2**
- F41** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), **Sch. 6 para. 1(1)(f)**; S.R. 2009/114, **art. 2**
- F42** 2004 NI 2
- F43** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), **Sch. 6 para. 1(1)(b)**; S.R. 2009/114, **art. 2**
- F44** Words in art. 15C(2) omitted (1.4.2013) by virtue of [The National Treatment Agency \(Abolition\) and the Health and Social Care Act 2012 \(Consequential, Transitional and Saving Provisions\) Order 2013 \(S.I. 2013/235\)](#), art. 1(2), **Sch. 2 para. 2**

[^{F45}[^{F46}**Primary medical services or personal] dental services: regulations**

15D.—(1) The Department may make regulations with respect to the provision of services in accordance with Article 15B arrangements.

(2) The regulations must—

- (a) include provision for participants other than Health and Social Services Boards to withdraw from Article 15B arrangements if they wish to do so;
- (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by^{F47} . . . dental practitioners performing personal dental services, in accordance with Article 15B arrangements.

In sub-paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.

(3) The regulations may, in particular—

- (a) provide that Article 15B arrangements may be made only in prescribed circumstances;
- (b) provide that Article 15B arrangements may be made only in prescribed areas;
- (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with Article 15B arrangements;

[impose conditions (including conditions as to qualifications and experience) to be
^{F48}(ca) satisfied by persons performing primary medical services in accordance with Article 15B arrangements;]

(d) require details of Article 15B arrangements to be published;

(e) make provision with respect to the variation and termination of Article 15B arrangements;
sub-paras. (f) and (g) rep. by 2004 NI 2

(h) provide for parties to Article 15B arrangements to be treated, in such circumstances and to such extent as may be prescribed, as [^{F49}health care] bodies for the purposes of Article 8 of the 1991 Order;

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- (i) provide for directions, as to payments, made under Article 8(8) of the 1991 Order (as it has effect as a result of regulations made by virtue of sub-paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;
- (j) authorise Health and Social Services Boards to make^{F50} with respect to the provision of personal dental services] payments of financial assistance for prescribed categories of preparatory work undertaken“
 - (i) in connection with preparing proposals for Article 15B arrangements; or
 - (ii) in preparation for the provision of services under proposed Article 15B arrangements.

^{F51}(3A) The regulations may also require payments to be made under Article 15B arrangements in accordance with directions given for the purpose by the Department.

(3B) A direction under paragraph (3A) may make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.

(3C) The regulations may also include provision requiring a Health and Social Services Board, in prescribed circumstances and subject to prescribed conditions, to enter into a general medical services contract on prescribed terms with any person providing services under Article 15B arrangements who so requests.

(3D) The regulations may also include provision for the resolution of disputes as to the terms of any proposed Article 15B arrangements, and in particular may make provision—

- (a) for the referral of the terms of the proposed arrangements to the Department; and
- (b) for the Department, or a person appointed by it, to determine the terms on which the arrangements may be entered into.

(3E) The regulations shall provide for the circumstances in which a person providing primary medical services under Article 15B arrangements—

- (a) shall or may accept a person as a patient to whom such services are so provided;
- (b) may decline to accept a person as such a patient;
- (c) may terminate his responsibility for a patient.

(3F) The regulations shall make provision as to the right of patients to choose the persons from whom they are to receive services under Article 15B arrangements.]

Para. (4) rep. by 2001 c.3 (NI)

Para. (5) rep. by 2004 NI 2

(6) Regulations which impose conditions on persons performing^{F52} primary medical services] or persons performing personal dental services (whether made by virtue of paragraph (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978.

Para. (7) rep. by 2004 NI 2]

F45 1997 NI 7

F46 2004 NI 2

F47 2004 NI 2

F48 2004 NI 2

F49 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), s. 34\(3\), Sch. 6 para. 1\(1\)\(b\)](#); S.R. 2009/114, [art. 2](#)

F50 2004 NI 2

F51 2004 NI 2

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F52 2004 NI 2

Art. 15E rep. by 2004 NI 2

[^{F53}Right to choose dental practitioner

15F.—(1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.

(2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.

(3) In this Article “primary dental services” means dental services which are—

- (a) provided, in accordance with Article 15B arrangements, as personal dental services; or
- (b) provided under Part VI as general dental services.]

F53 1997 NI 7

Status:

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Changes to legislation:

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