
STATUTORY INSTRUMENTS

1972 No. 1265

Health and Personal Social Services (Northern Ireland) Order 1972

PART VI

GENERAL HEALTH SERVICES

Local representative committees

[^{F1}Recognition of]^{F2} Local Dental Committees, Local Optical Committees and Local Pharmaceutical Committees]

Para. (1) rep. by 2004 NI 2

(2) A Health and Social Services Board may recognise a committee formed for [^{F3}an area] which it is satisfied is representative of—

- (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 [^{F4}an area] is representative—

- (a) of the [^{F5}ophthalmic medical practitioners and] 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)—

Sub-paras. (a) and (b) rep. by 2004 NI 2

- (c) is a deputy dental practitioner for [^{F6}an area] if he is a dental practitioner who assists a dental practitioner providing general dental services in that area in the provision of those services ^{F7}. . . ;

Status: Point in time view as at 01/04/2009.

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(d) is an Article 15B dental practitioner for ^{F8}[an area] 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 ^{F9}[the 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^{F2}. . . 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; ^{F10}. . .

(b) ^{F11}.....]

F1	2001 c. 3 (NI)
F2	2004 NI 2
F3	Words in art. 55(2) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(a) ; S.R. 2009/114, art. 2
F4	Words in art. 55(3) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(a) ; S.R. 2009/114, art. 2
F5	Words in art. 55(3)(a) inserted (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), ss. 9, 18(1)(a)
F6	Words in art. 55(5)(c) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(b)(i) ; S.R. 2009/114, art. 2
F7	Words in art. 55(5)(c) repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(b)(ii) , Sch. 7 ; S.R. 2009/114, art. 2
F8	Words in art. 55(5)(d) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(c) ; S.R. 2009/114, art. 2
F9	Words in art. 55(6) substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(d) ; S.R. 2009/114, art. 2
F10	Art. 55(7)(b) and word repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(e) , Sch. 7 ; S.R. 2009/114, art. 2
F11	Art. 55(7)(b) and word repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(27)(e) , Sch. 7 ; S.R. 2009/114, art. 2

Functions of^{F12} Local Dental Committees, Local Optical Committees and Local Pharmaceutical 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^{F12} Article 55(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^{F12} paragraph (2)(b) or (c)] of Article 55 shall, in respect of each year, determine the amount of its administrative expenses for that year attributable—*Sub-paras. (a) and (b) rep. by 2004 NI 2*

- (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;
- (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 [^{F13}an 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^{F12}. . . , 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^{F12}. . . , 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.

F12 2004 NI 2

F13 Words in [art. 55A\(5\)](#) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 3\(28\)](#); S.R. 2009/114, [art. 2](#)

^{F14}Local Medical Committees

55B.—(1) A Health and Social Services Board may recognise a committee [^{F15}formed for an area], which it is satisfied is representative of—

- (a) the persons to whom paragraph (2) applies; and
 - (b) the persons to whom paragraph (3) applies.
- (2) This paragraph applies to—
- (a) every medical practitioner who, under a general medical services contract entered into by him, is providing primary medical services in the area for which the committee is formed; and
 - (b) every medical practitioner who is providing general ophthalmic services in that area.
- (3) This paragraph applies to every other medical practitioner—
- (a) who is performing primary medical services in the area for which the committee is formed;
 - (i) pursuant to Article 56(2)(a);
 - (ii) in accordance with Article 15B arrangements; or
 - (iii) under a general medical services contract; and

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- (b) who has notified the Health and Social Services Board that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).
- (4) A committee recognised under this Article shall be called the Local Medical Committee for the area for which it is formed.
- (5) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (6) Regulations may require a Health and Social Services Board, in the exercise of its functions relating to primary medical services, to consult any committee recognised by it under this Article on such occasions and to such extent as may be prescribed.
- (7) A committee recognised under this Article shall have such other functions as may be prescribed.
- (8) A committee recognised under this Article shall in respect of each year determine—
- (a) the amount of its administrative expenses for that year attributable to persons of whom it is representative under paragraph (1)(a); and
 - (b) the amount of its administrative expenses for that year attributable to persons of whom it is representative under paragraph (1)(b).
- (9) A Health and Social Services Board may—
- (a) on the request of a committee recognised by it, allot to that committee such sums for defraying the expenses referred to in paragraph (8)(a) as it may determine; and
 - (b) deduct the amount of such sums from the remuneration of persons of whom it is representative under paragraph (1)(a) under the general medical services contracts, or arrangements under Article 62, entered into by them with the Board.
- (10) A committee recognised under this Article shall apportion the amount determined by it under paragraph (8)(b) among the persons of whom it is representative under paragraph (1)(b); and each such person shall pay in accordance with the committee's directions the amount so apportioned to him.
- (11) References in this Article to the administrative expenses of a committee include the travelling and subsistence allowances payable to its members.]

F14 2004 NI 2

F15 Words in [art. 55B\(1\)](#) substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), s. 34(3), [Sch. 6 para. 3\(29\)](#); S.R. 2009/114, [art. 2](#)

[^{F16} Primary medical services]

F16 2004 NI 2

[^{F17} Primary medical services

- 56.**—(1) Each Health and Social Services Board shall, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary medical services ^{F18} . . . , or secure their provision ^{F18}
- (2) A Health and Social Services Board may (in addition to any other power conferred on it)—
- (a) provide primary medical services itself ^{F19} . . . ;
 - (b) make such arrangements for their provision ^{F19} . . . as it thinks fit, and may in particular make contractual arrangements with any person.

(3) Each Health and Social Services Board shall publish information about such matters as may be prescribed in relation to the primary medical services provided under this Part.

(4) A body on which functions are conferred under this Article shall co-operate with any other such body in the discharge of their respective functions relating to the provision of primary medical services under this Part.

(5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary medical services for the purposes of this Part.

(6) Regulations under this Article may in particular describe services by reference to the manner or circumstances in which they are provided.]

F17 2004 NI 2

F18 Words in art. 56(1) repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(30)(a), Sch. 7; S.R. 2009/114, art. 2

F19 Words in art. 56(2) repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(30)(b), Sch. 7; S.R. 2009/114, art. 2

[^{F20} General medical services contracts

F20 2004 NI 2

General medical services contracts: introductory

57.—(1) A Health and Social Services Board may enter into a contract under which primary medical services are provided in accordance with the following provisions of this Part.

(2) A contract under this Article is called in this Order a “general medical services contract”.

(3) Subject to any provision made by or under this Part, a general medical services contract may make such provision as may be agreed between the Health and Social Services Board and the contractor or contractors in relation to—

- (a) the services to be provided under the contract,
- (b) remuneration under the contract, and
- (c) any other matters.

(4) The services to be provided under a general medical services contract may include—

- (a) services which are not primary medical services;
- (b) ^{F21}

(5) In this Part, “contractor”, in relation to a general medical services contract, means any person entering into the contract with the Health and Social Services Board.

F21 Art. 57(4)(b) repealed (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), s. 34(3), Sch. 6 para. 3(31), Sch. 7; S.R. 2009/114, art. 2

Requirement to provide certain primary medical services

57A.—(1) A general medical services contract shall require the contractor or contractors to provide, for his or their patients, primary medical services of such descriptions as may be prescribed.

(2) Regulations under paragraph (1) may in particular describe services by reference to the manner or circumstances in which they are provided.

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Persons eligible to enter into general medical services contracts

57B.—(1) A Health and Social Services Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with—

- (a) a medical practitioner;
 - (b) two or more individuals practising in partnership where the conditions in paragraph (2) are satisfied; or
 - (c) a company limited by shares where the conditions in paragraph (3) are satisfied.
- (2) The conditions referred to in paragraph (1)(b) in relation to a partnership are that—
- (a) at least one partner is a medical practitioner; and
 - (b) any partner who is not a medical practitioner is either—
 - (i) an [F22HSC employee];
 - (ii) an Article 15B employee, a section 28C employee or a section 17C employee;
 - (iii) a health care professional who is engaged in the provision of services under this Order; or
 - (iv) an individual falling within Article 15C(1)(b)(iii).
- (3) The conditions referred to in paragraph (1)(c) in relation to a company are that—
- (a) at least one share in the company is legally and beneficially owned by a medical practitioner; and
 - (b) any share which is not so owned is legally and beneficially owned by a person referred to in paragraph (2)(b)(i) to (iv).

(4) Regulations may make provision as to the effect, in relation to a general medical services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.

(5) In this Article—

“health care professional” has the same meaning as in Article 15C;

“ [F22HSC employee]”, “Article 15B employee”, “section 28C employee” and “section 17C employee” have the same meaning as in Article 15C.

F22 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](#)

General medical services contracts: payments

57C.—(1) The Department may give directions as to payments to be made under general medical services contracts.

(2) A general medical services contract must require payments to be made under the contract in accordance with directions for the time being in force under this Article.

(3) Without prejudice to the generality of the power under paragraph (1) directions under that paragraph may—

- (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
- (b) provide for payments to be made by reference to—
 - (i) any scheme or scale specified in the direction; or

- (ii) a determination made by any person in accordance with factors specified in the direction;
 - (c) provide for the making of payments in respect of individual practitioners;
 - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Health and Social Services Board only if it is satisfied as to certain conditions)
 - (e) 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.
- (4) Before giving a direction under paragraph (1), the Department—
- (a) shall consult any body appearing to it to be representative of persons to whose remuneration the direction would relate, and
 - (b) may consult such other persons as it thinks appropriate.
- (5) References in this Article to payments include fees, allowances, reimbursements, loans and repayments.

General medical services contracts: prescription of drugs, etc.

57D.—(1) A general medical services contract shall contain provision requiring the contractor or contractors to comply with any directions given by the Department for the purposes of this Article as to the drugs, medicines or other substances which may or may not be ordered for patients in the provision of medical services under the contract.

(2) A direction under this Article shall, subject to paragraph (3), be given by regulations.

(3) A direction under this Article may be given by an instrument in writing where it gives effect to a request made in writing to the Department by a person who is a holder of a Community marketing authorisation or United Kingdom marketing authorisation in respect of the drug, medicine or other substance to which the request relates.

(4) A direction under this Article given by an instrument in writing may be varied or revoked by a further direction under this Article (whether given by an instrument in writing or by regulations).

(5) In this Article “Community marketing authorisation” and “United Kingdom marketing authorisation” have the meanings given by regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994 (S.I. 1994/3144).

General medical services contracts: other required terms

57E.—(1) A general medical services contract shall contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

(2) Regulations under paragraph (1) may in particular make provision as to—

- (a) the manner in which, and standards to which, services are to be provided;
- (b) the persons who perform services;
- (c) the persons to whom services are to be provided;
- (d) the variation of contract terms (other than terms required by or under this Part);
- (e) rights of entry and inspection (including inspection of clinical records and other documents);
- (f) the circumstances in which, and the manner in which, the contract may be terminated;
- (g) enforcement;

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- (h) the adjudication of disputes.
- (3) Regulations making provision under paragraph (2)(c) shall make provision as to the circumstances in which a contractor or contractors—
 - (a) shall or may accept a person as a patient to whom services are provided under the contract; or
 - (b) may decline to accept a person as such a patient; or
 - (c) may terminate his or their responsibility for a patient.
- (4) Regulations under paragraph (2)(d) may—
 - (a) make provision as to the circumstances in which a Health and Social Services Board may impose a variation of contract terms;
 - (b) make provision suspending or terminating any duty under the contract to provide services of a prescribed description.
- (5) Regulations making provision of the kind described in paragraph (4)(b) may prescribe services by reference to the manner or circumstances in which they are provided.
- (6) Regulations under paragraph (1) shall make provision as to the right of patients to choose the persons from whom they are to receive services.

General medical services contracts: disputes and enforcement

- 57F.**—(1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general medical services contract.
- (2) Regulations under paragraph (1) may make provision—
 - (a) for the referral of the terms of the proposed contract to the Department; and
 - (b) for the Department, or a person appointed by it, to determine the terms on which the contract may be entered into.
 - (3) Regulations may make provision for a person or persons entering into a general medical services contract to be regarded as a health and [F23 social care] body for any purposes of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991, in circumstances where he or they so elect.
 - (4) Regulations under paragraph (3) may include provision as to the application of Article 8 of that Order in cases where—
 - (a) persons practising in partnership elect to become a health and [F23 social care] body; and
 - (b) there is a change in the membership of the partnership.
 - (5) Where—
 - (a) by virtue of regulations under paragraph (3), paragraph (8) of Article 8 of that Order applies in relation to a general medical services contract, and
 - (b) a direction as to payments is made under that paragraph in relation to the contract,
 the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.]

F23 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](#)

[^{F24} Persons performing primary medical services

F24 2004 NI 2

Persons performing primary medical services

^{F25}57G.—(1) Regulations may provide that a health care professional of a prescribed description may not perform any primary medical service for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations [^{F26}by a Health and Social Services Board].

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- (b) a Health and Social Services Board is responsible for a primary medical service if it provides the service, or secures provision of the service, under or by virtue of Article 56.

(3) Regulations under paragraph (1) may make provision in relation to such lists and in particular as to—

- (a) the preparation, maintenance and publication of a list;
- (b) eligibility for inclusion in a list;
- (c) applications for inclusion (including provision ^{F27}. . . for the procedure for applications and the documents to be supplied on application);
- (d) the grounds on which an application for inclusion may or must be granted or refused;
- (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits);
- (f) suspension or removal from a list or references to the Tribunal (including the grounds for and consequences of suspension or removal, or reference);
- (g) circumstances in which a person included in a list may not withdraw from it;
- (h) payments to be made in respect of a person suspended from the list (including provision for the amount of, or the method of calculating, the payment to be determined by the Department, or a person appointed by it);
- (i) the criteria to be applied in making decisions under the regulations;
- (j) appeals against decisions made by a Health and Social Services Board under the regulations;
- (k) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references.

[
^{F28}(3A) Regulations under paragraph (1) may, in particular, also provide for—

- (a) a person's inclusion or continued inclusion in a list to be subject to conditions determined by a Health and Social Services Board;
- (b) a Board to vary the conditions or impose different ones;
- (c) the consequences of failing to comply with a condition (including removal from a list);
- (d) the review by a Board of decisions made by it by virtue of the regulations.

(3B) The imposition of such conditions may be with a view to—

- (a) preventing any prejudice to the efficiency of the services to which the list relates, or
- (b) preventing fraud.]

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(4) Regulations making provision as to the matters referred to in paragraph (3)(k) may in particular authorise the disclosure of information—

- (a) by a Health and Social Services Board to the Department; and
- (b) by the Department to a Health and Social Services Board.

- F25** mod. by SR 2004/259
- F26** Words in art. 57G(1) substituted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\), ss. 1\(2\), 18\(1\)\(a\)](#)
- F27** Words in art. 57G(3)(c) repealed (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\), s. 34\(3\), Sch. 6 para. 3\(32\), Sch. 7; S.R. 2009/114, art. 2](#)
- F28** [Art. 57G\(3A\)\(3B\)](#) inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\), ss. 1\(3\), 18\(1\)\(a\)](#)

[^{F29} Assistance and support

57H.—(1) A Health and Social Services Board may provide assistance or support to—

- (a) any person providing, or proposing to provide primary medical services under a general medical services contract;
- (b) any person providing, or proposing to provide, such services in accordance with Article 15B arrangements.

(2) Assistance or support provided by a Health and Social Services Board under paragraph (1) shall be provided on such terms, including terms as to payment, as the Board thinks fit.

(3) In this Article “assistance” includes financial assistance.]

F29 [2004 NI 2](#)

Art 58 rep. by 1988 NI 24

Loans to general medical practitioners

59. The Ministry may, subject to and in accordance with the provisions of Schedule 9, make loans to practitioners providing[^{F30} primary medical services].

F30 [2004 NI 2](#)

Prohibition of sale of, and compensation for loss of right to sell, medical practices

60. Schedule 10 shall have effect with respect to the prohibition of the sale of, ...^{F31}, the goodwill of medical practices.]

F31 [1978 NI 26](#)

General Dental Services, General Ophthalmic Services and Pharmaceutical Services

Arrangements for general dental services

61.—(1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area with dental practitioners under which any person for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and

appliances shall receive such treatment and appliances, and the services provided in accordance with the arrangements are in this Order referred to as “general dental services”.

(2) Subject to paragraph (4), regulations may make provisions as to the arrangements to be made under paragraph (1), and shall include provision—

(a) for the preparation, publication and maintenance of lists of dental practitioners who undertake to provide general dental services;

(b) ^{F32} for conferring a right, subject to [^{F33} [^{F34} paragraphs (2A) and (2AA)]^{F35}, to any provision made under Article 64C]^{F36}, to regulations under Article 4 of the Health and Medicines (Northern Ireland) Order 1988] and to] the provisions of this Order relating to the disqualification of persons providing services, on any dental practitioner^{F34} . . . who wishes to be included in any such list, to be so included;

Sub-para. (c) rep. by 1997 NI 7

(d) for the making and recovery by persons providing general dental services of charges in respect of—

(i) the extra expense involved in the supply, at the request of the person supplied, as part of those services, of any dental appliance which is of a more expensive type than that which would normally be supplied, or the replacement or repair of any such appliance; or

(ii) the replacement or repair of any dental appliance supplied as part of the services aforesaid, if it is determined in the prescribed manner that the replacement or repair is necessitated by an act or omission of the person supplied or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred; and

(e) for [^{F37} the determination of] the remuneration of dental practitioners providing general dental services.

^{F33}(2A) No dental practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his name included in the lists mentioned in paragraph (2)(a) unless he satisfies the Health and Social Services Board in whose area his surgery is, or is to be, situated that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general dental services in the Board's area.]

[^{F34}(2AA) Regulations may make the exercise of the right conferred by virtue of sub-paragraph (b) of paragraph (2) subject to any provision made by or under the regulations, and, in such cases as may be prescribed, may confer a right of appeal to a prescribed body in respect of a refusal to include a dental practitioner on such a list as is referred to in sub-paragraph (a) of that paragraph.]

[^{F38} [^{F39}(2B) Paragraph (2BB) applies where the registration of a dental practitioner in the dentists register is suspended—

(a) by an interim suspension order under section 32 of the Dentists Act 1984 (interim orders); or

(b) by a direction or order of the Health Committee, the Professional Performance Committee or the Professional Conduct Committee of the General Dental Council under any of sections 27B, 27C or 30 of that Act following a relevant determination that that practitioner's fitness to practise is impaired.

(2BA) For the purposes of paragraph (2B), a “relevant determination” that a practitioner's fitness to practise is impaired is a determination which is based solely on—

(a) the ground mentioned in paragraph (b) of subsection (2) of section 27 of the Dentists Act 1984 (deficient professional performance);

Status: Point in time view as at 01/04/2009.

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- (b) the ground mentioned in paragraph (c) of that subsection (adverse physical or mental health); or
- (c) both those grounds.

(2BB) Where this paragraph applies, the suspension shall not terminate any arrangements made with the dental practitioner for the provision of general dental services, but he shall not provide such services in person during the suspension.]

(2C) Regulations under paragraph (2)(e) may provide for the making of payments in consequence of suspension to a dental practitioner whose registration is suspended as mentioned in paragraph (2B).]

(3) Subject to paragraph (4), regulations may make provision for the making and recovery of charges (subject to such safeguards as the Ministry may consider necessary) by persons providing general dental services in respect of treatment which, on the ground of the nature of the treatment provided or such other special circumstances (whether related to the nature of the treatment or otherwise) as may be prescribed, justifies an extra charge.

(4) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of the dental profession.

- F32** mod. by SR 2004/259
- F33** SI 1981/432
- F34** 1991 NI 1
- F35** 2001 c. 3 (NI)
- F36** 1988 NI 24
- F37** 1978 NI 26
- F38** 1986 NI 24
- F39** Art. 61(2B)(2BA)(2BB) substituted (31.7.2006) for art. 61(2B) by Dentists Act 1984 (Amendment) Order 2005 (S.I. 2005/2011), arts. 1(5), 49, **Sch. 6 para. 6(2)**

[^{F40} Ophthalmic services]

- F40** Art. 62 cross-heading inserted (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), **ss. 8(1), 18(1)(a)**

Arrangements for general ophthalmic services

62.—(1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area with medical practitioners having the prescribed qualifications,^[F41] and ophthalmic opticians for securing the testing^[F42] by them of the sight—

- ^[F43](a) of a child;
- (b) of a person whose resources fall to be treated under the regulations as being less than his requirements or as being equal to his requirements; or
- (c) of a person of such other description as may be prescribed.]

and the services provided in accordance with such arrangements are in this Order referred to as “general ophthalmic services”.

(2) Subject to paragraph (3), regulations may make provision as to the arrangements to be made under this Article, and shall include provision—

- (a) ^{F44}
- (b) ^{F44}

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- (c) ^{F44}
- (d) for conferring on any person a right to choose, in accordance with the prescribed procedure, the medical practitioner or ophthalmic optician by whom his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained^{F45} . . . ;
- Sub-para. (e) rep. by 1984 NI 8*

^{F46}(f) for [^{F47} the determination of] the remuneration of persons providing or participating in the provision of general ophthalmic services.

(3) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of medical practitioners practising as ophthalmic medical practitioners,^{F48} and ophthalmic] opticians.

^{F49}(4) In this Article—

“child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full#time education; and

“qualifying full#time education” means full-time instruction—

- (a) at an educational establishment recognised by the Department as being, or as comparable to, a school, college or university; or
- (b) by other means accepted as comparable by the Department,

and for the purposes of this definition regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full#time instruction.

(5) Regulations under this Article may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this paragraph, may direct that they shall be calculated—

- (a) by a method set out in the regulations;
- (b) by a method described by reference to a method of calculating or estimating income or capital specified in a transferred provision other than this Article or by reference to such a method but subject to prescribed modifications;
- (c) by reference to an amount applicable for the purposes of a payment under a transferred provision; or
- (d) by reference to the person's being or having been entitled to payment under a transferred provision.

(6) Descriptions of persons may be prescribed for the purposes of paragraph (1) by reference to any criterion and, without prejudice to the generality of this paragraph, by reference to any of the following criteria—

- (a) their age;
- (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
- (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
- (d) their receipt of benefit in money or in kind under any transferred provision or their entitlement to receive any such benefit; and
- (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits.

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(7) Regulations which refer to a transferred provision may direct that the reference is to be construed as a reference to that provision—

- (a) as it has effect at the time when the regulations are made; or
- (b) both as it has effect at that time and as amended subsequently.

(8) Regulations may provide that a person—

- (a) whose sight is tested by a person who provides general ophthalmic services; and
- (b) who is shown during the testing or within a prescribed time after it to fall within paragraph (1),

shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested; and the testing shall be treated—

- (i) for the purposes of any arrangements under this Article;
- (ii) for the purposes of remuneration in respect of the testing; and
- (iii) for any such other purpose as may be prescribed,

as a testing of sight under this Order.

(9) Regulations shall define the services for the provision of which arrangements under this Article are to be made and the services so defined are in this Order referred to as “general ophthalmic services”.]

- F41** 1984 NI 8
- F42** 1988 NI 24
- F43** 1988 NI 24
- F44** Art. 62(2)(a)-(c) repealed (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\), ss. 8\(2\), 18\(1\)\(a\)\(c\), Sch. 2 Pt. 1](#)
- F45** 1984 NI 8
- F46** prosp. rep. by 1984 NI 8
- F47** 1978 NI 26
- F48** 1984 NI 8
- F49** 1988 NI 24

[^{F50} **Persons providing general ophthalmic services**

62A.—(1) Regulations may provide that a health care professional of a prescribed description may not provide any general ophthalmic services for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by a Health and Social Services Board.

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- (b) a Health and Social Services Board is responsible for general ophthalmic services if it secures provision of the services under or by virtue of Article 62.

(3) Paragraphs (3), (3A), (3B) and (4) of Article 57G shall apply for the purposes of regulations made under this Article in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article.]

- F50** Art. 62A inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\), ss. 8\(3\), 18\(1\)\(a\)](#)

[^{F51}Pharmaceutical services]

F51 Art. 63 cross-heading inserted (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), ss. 10(1), 18(1)(a)

Arrangements for pharmaceutical services

[^{F53} (1) Every Health and Social Services Board shall, in accordance with regulations, make arrangements in respect of its area for the [^{F54} provision] to persons who are in that area—

(a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions—

(i) in providing any service in pursuance of this Order; or

(ii) in the [^{F55}health care] established in pursuance of section 1 of the National Health Service Act 1977 or section 1 of the National Health Service (Scotland) Act 1978 ; or

(iii) in the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony),^{F56} . . .

(b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions,^{F57} . . .

(bb) [^{F58}listed drugs and medicines and listed appliances which are ordered for those persons by [^{F59}a pharmacist or] a prescribed description of registered nurse, midwife or health visitor in pursuance of such functions; and]

(c) [^{F60}such services as may be prescribed;]

[^{F61}and the services provided in accordance with the arrangements are, together with additional pharmaceutical services provided in accordance with a direction under Article 63A, referred to in this Order as “pharmaceutical services”.]

[^{F62}(2) Regulations shall provide for securing that arrangements made by a Health and Social Services Board under paragraph (1) will enable persons in the Board's area for whom drugs, medicines or appliances mentioned in that paragraph are ordered as there mentioned [^{F63}, or to whom services mentioned in paragraph (1)(c) are to be provided] to receive them from persons with whom such arrangements have been made.

- (2A) ^{F64}
- (2B) ^{F64}
- (2C) ^{F64}
- (2D) ^{F64}]

(3) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of the pharmaceutical profession.

^{F65}(4) In this Article “listed” means included in a list for the time being approved for the purposes of this Article by the Department.]

F52 mod. by SR 2004/259
F53 1978 NI 26
F54 1991 NI 1
F55 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**
F56 1992 NI 18

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F57	1992 NI 18
F58	1992 NI 18
F59	2003 NI 9
F60	1991 NI 1
F61	1997 NI 7
F62	1986 NI 20
F63	1991 NI 1
F64	Art. 63(2A)-(2D) repealed (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), ss. 10(2), 18(1)(a)(c), Sch. 2 Pt. 1
F65	1978 NI 26

[^{F66} **Persons providing pharmaceutical**

63AA.—(1) Regulations may provide that a health care professional of a prescribed description may not provide any pharmaceutical services for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by a Health and Social Services Board.

(2) Regulations under paragraph (1) shall include provision—

- (a) that an application to a Health and Social Services Board for inclusion in such a list shall be made in the prescribed manner and shall state—
 - (i) the pharmaceutical services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and
 - (ii) the premises from which he will undertake to provide those pharmaceutical services;
- (b) that, except in prescribed cases—
 - (i) an application for inclusion in such a list by a person not already included; and
 - (ii) an application by a person already included in such a list for inclusion also in respect of pharmaceutical services or premises other than those already listed in relation to him,

shall be granted only if the Health and Social Services Board is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the pharmaceutical services or some of the pharmaceutical services, specified in the application; and

- (c) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—
 - (i) has never provided from those premises, or
 - (ii) has ceased to provide from them,

the pharmaceutical services, or any of the pharmaceutical services, which he is listed as undertaking to provide from them.

(3) Regulations under paragraph (1) may include provision—

- (a) that an application to a Health and Social Services Board may be granted in respect of some only of the pharmaceutical services specified in it;
- (b) that an application to a Health and Social Services Board relating to pharmaceutical services of a prescribed description shall be granted only if it appears to the Board that the applicant has satisfied such conditions with regard to the provision of those pharmaceutical services as may be prescribed;

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- (c) that an application to a Health and Social Services Board by a person who qualified to have his name registered under the Pharmacy (Northern Ireland) Order 1976 by virtue of Article 8(2)(c) of that Order (qualification by European diploma) shall not be granted unless the applicant satisfies the Board that he has the knowledge of English which, in the interests of himself and the persons making use of the pharmaceutical services to which the application relates, is necessary for the provision of pharmaceutical services in the Board's area;
 - (d) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;
 - (e) that, where the premises from which an application states that the applicant will undertake to provide pharmaceutical services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by a prescribed body and by reference to prescribed criteria; and
 - (f) that the prescribed body may give its approval subject to conditions.
- (4) For the purposes of this Article—
- (a) “health care professional” has the same meaning as in Article 15C;
 - (b) a Health and Social Services Board is responsible for pharmaceutical services if it secures provision of the services, under or by virtue of Article 63 or 63A.
- (5) Paragraphs (3), (3A), (3B) and (4) of Article 57G apply for the purposes of regulations made under this Article in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article.]

F66 Art. 63AA inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), ss. **10(3)**, 18(1)(a)

[^{F67}Arrangements for providing additional pharmaceutical services

- 63A.**—(1) The Department may—
- (a) give directions to a Health and Social Services Board requiring it to arrange for the provision to persons in its area of additional pharmaceutical services; or
 - (b) by giving directions to a Health and Social Services Board authorise it to arrange for such provision if it wishes to do so.
- (2) Directions under this Article may make different provision in relation to different services specified in the directions.
- (3) The Department must publish any directions under this Article in the Drug Tariff or in such other manner as it thinks appropriate.
- (4) In this Article—
- “additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within Article 63) as may be specified in the directions; and
- “Drug Tariff” means the Drug Tariff published under regulation 40 of the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973 or under any corresponding provision replacing, or otherwise derived from, that regulation.]

F67 1997 NI 7

Status: Point in time view as at 01/04/2009.

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[^{F68}Terms and conditions etc.

63B.—(1) Directions under Article 63A may require the Health and Social Services Board to which they apply, when making arrangements—

- (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
- (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.

(2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.

(3) Different arrangements may be made with respect to—

- (a) the provision of the same service by the same person but in different circumstances; or
- (b) the provision of the same service by different persons.

(4) A Health and Social Services Board must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.

(5) After making any arrangements, a Health and Social Services Board must publish, in such manner as the Department may direct, such details of the arrangements as the Department may direct.

(6) In this Article, “pharmaceutical list” means, subject to any provision of the directions in question, a list—

- (a) published by the Health and Social Services Board concerned, or by any other Health and Social Services Board, in accordance with regulations made under Article 63(2A)(a); or
- (b) published by any body in accordance with regulations made under section 27(2)(a) of the National Health Service (Scotland) Act 1978 or section 42(2)(a) of the National Health Service Act 1977.]

F68 1997 NI 7

Persons authorised to provide pharmaceutical services

64.—[^{F69}(1) Except as provided[^{F70} by or under regulations], an arrangement shall not be made by a Health and Social Services Board—

- (a) with a medical or dental practitioner, under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering[^{F71} primary medical services] or general dental services; or
- (b) with a person who is not a pharmacist, for the dispensing of medicines.

[^{F72}(1A) Regulations shall provide for the preparation and publication by a Health and Social Services Board of one or more lists of medical practitioners who are required or agree to provide drugs, medicines or listed appliances in the Board's area.

(1B) In paragraph (1A) “listed” has the same meaning as in Article 63.

(1C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.]

[^{F73}(2) No arrangements for the provision of pharmaceutical services falling within Article 63(1) (c)[^{F74}, or additional pharmaceutical services provided in accordance with a direction under Article

63A.] shall be made with persons other than those who are pharmacists or are of a prescribed description.]]

- F69 1991 NI 1
- F70 1986 NI 20
- F71 2004 NI 2
- F72 1997 NI 7
- F73 1991 NI 1
- F74 1997 NI 7

Supplementary provisions

F75

F75 prosp. inserted by 1984 NI 8

F76

F76 prosp. subst. by 2001 c. 3 (NI)

[^{F77}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

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(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.]

F77 2001 c. 3 (NI)

Disqualification of persons providing certain services

65. The provisions of Schedule 11 shall have effect in relation to the disqualification of persons providing services.

Former dispensary property, etc.

66. The provisions of Schedule 12 shall apply to any property which was transferred to and vested in the Northern Ireland General Health Services Board consequent on section 19 of the Health Services Act (Northern Ireland) 1948 and transferred to and vested in the Ministry by virtue of section 6(1)(b) of the Health Services (Amendment) Act (Northern Ireland) 1967 .

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Point in time view as at 01/04/2009.

Changes to legislation:

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