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STATUTORY INSTRUMENTS

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**1997 No. 1177 (N.I. 7)**

**NORTHERN IRELAND**

**The Health Services (Primary Care)  
(Northern Ireland) Order 1997**

*Made* - - - - - *8th April 1997*  
*Laid before Parliament* *14th May 1997*  
*Coming into operation on days to be appointed under*  
*Article 1(2)*

At the Court at Windsor Castle, the 8th day of April 1997

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to purposes of the National Health Service (Primary Care) Act 1997 (except sections 32 to 34):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 38 of the said Act of 1997) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**PART I**

**INTRODUCTORY**

**Title and commencement**

1.—(1) This Order may be cited as the Health Services (Primary Care) (Northern Ireland) Order 1997.

(2) This Order shall come into operation on such day or days as the Department may by order appoint.

(3) The Department may not make an order under paragraph (2) bringing Article 21 into operation unless it is satisfied, having regard in particular to reviews of pilot schemes which have been conducted under Article 9, that it would be in the interests of any part of the health services to bring Article 21 into operation.

(4) An order under paragraph (2) may contain such transitional provisions or savings as the Department considers appropriate.

(5) A board or HSS trust is to be taken as having, at any time before the coming into operation of any provision of this Order, power to prepare for that coming into operation.

### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) Subject to paragraph (3), this Order is to be read as one with the 1972 Order.

(3) In this Order—

“board” means a Health and Social Services Board;

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“pilot scheme” and “piloted services” have the meaning given in Article 3;

“regulations” means regulations under this Order.

(4) Except in Articles 15B and 15D of the 1972 Order—

(a) references in any statutory provision to arrangements made under Article 15B of the 1972 Order are to be read, except where the context otherwise requires, as including references to pilot schemes; and

(b) references in any statutory provision to services under Article 15B of the 1972 Order, or to services provided in accordance with arrangements made under that Article, are to be read, except where the context otherwise requires, as including references to piloted services.

## **PART II**

### **PILOT SCHEMES FOR PRIMARY CARE**

#### *Preparation and making of pilot schemes*

### **Pilot schemes**

3.—(1) In this Order “pilot scheme” means one or more agreements made by a board with respect to its area and in accordance with this Part under which—

(a) personal medical services are provided (otherwise than by the board); or

(b) personal dental services are provided (otherwise than by the board).

(2) A pilot scheme may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services.

(3) A pilot scheme may include arrangements for the provision of health services—

(a) which are not personal medical services or personal dental services; but

(b) which may be provided under Part II of the 1972 Order.

(4) In this Order “piloted services” means services provided in accordance with a pilot scheme (including any services to which the scheme applies by virtue of paragraph (3)).

(5) Except to such extent as may be prescribed—

- (a) a patient for whom personal medical services are provided under a pilot scheme is not to count as a person for whom arrangements must be made by the board concerned under Article 56 of the 1972 Order;
  - (b) a patient for whom personal dental services are provided under a pilot scheme is not to count as a person for whom arrangements must be made by the board concerned under Article 61 of the 1972 Order.
- (6) The functions of an HSS trust include power to provide piloted services, and to do so as a member of a qualifying body (within the meaning of Article 4 or 5).
- (7) For the purposes of this Part—
- “personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part VI of the 1972 Order; and
  - “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 of the 1972 Order.

#### **Provision of personal medical services under a pilot scheme**

4.—(1) This Article applies to any pilot scheme under which personal medical services are provided.

(2) An agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme may be made by a board only with one or more of the following—

- (a) an HSS trust;
- (b) a suitably experienced medical practitioner;
- (c) an HSS employee or a pilot scheme employee;
- (d) a qualifying body;
- (e) an individual who is providing personal medical services under that or another pilot scheme.

(3) In this Article—

“HSS employee” means an individual who, in connection with the provision of health services, is employed by—

- (a) an HSS trust;
- (b) a medical practitioner whose name is included in a medical list; or
- (c) a medical practitioner who is providing personal medical services in accordance with a pilot scheme;

“pilot scheme employee” means an individual who, in connection with the provision of personal medical services in accordance with a pilot scheme, is employed by an individual providing those services;

“qualifying body” means a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2).

(4) For the purposes of this Article, a medical practitioner is suitably experienced if he is suitably experienced for the purposes of Article 12 of this Order or Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978.

#### **Provision of personal dental services under a pilot scheme**

5.—(1) This Article applies to any pilot scheme under which personal dental services are provided.

(2) An agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme may be made by a board only with one or more of the following—

- (a) an HSS trust;
- (b) a dental practitioner whose name is included in a dental list;
- (c) an HSS employee or a pilot scheme employee;
- (d) a qualifying body;
- (e) an individual who is providing personal dental services under that or another pilot scheme.

(3) In this Article—

“dental list” means a list prepared in accordance with regulations under Article 61(2)(a) of the 1972 Order;

“HSS employee” means an individual who, in connection with the provision of health services, is employed by—

- (a) an HSS trust;
- (b) a dental practitioner whose name is included in a dental list; or
- (c) a dental practitioner who is providing personal dental services in accordance with a pilot scheme;

“pilot scheme employee” means an individual who, in connection with the provision of personal dental services in accordance with a pilot scheme, is employed by an individual providing those services;

“qualifying body” means—

- (a) 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; or
- (b) a company which is limited by shares all of which are legally and beneficially owned by persons falling within sub-paragraph (a), (b), (c) or (e) of paragraph (2).

### **Proposals for pilot schemes**

**6.—**(1) Before any pilot scheme may be made, the board concerned must prepare proposals for the scheme and submit them to the Department.

(2) A board must prepare and submit such proposals if it is asked to do so by a person—

- (a) who wishes to provide piloted services; and
- (b) with whom an agreement which constitutes, or is part of, a pilot scheme may be made;

but otherwise a board may not do so.

(3) A request to a board under paragraph (2) must—

- (a) be made in writing; and
- (b) comply with such requirements (if any) as may be prescribed.

(4) In preparing proposals for a pilot scheme, a board must comply with any directions given to it by the Department as to the matters to be dealt with, and information to be included, in the proposals.

(5) Before submitting proposals for a pilot scheme, a board must (in addition to complying with any requirements about consultation imposed by or under any other statutory provision) comply with any directions given to it by the Department about the extent to which, and manner in which, it is to consult on the proposals.

(6) The Department may give directions as to—

- (a) the matters to which a board must have regard in making any recommendation to the Department when submitting proposals for a pilot scheme; and
- (b) the form in which any such recommendation is to be made.

### **Approval of pilot schemes**

7.—(1) If proposals for a pilot scheme are submitted to the Department under Article 6, it must—

- (a) approve them as submitted;
- (b) make such modifications as it considers appropriate and approve them as modified; or
- (c) reject them.

(2) The Department may not approve proposals for a pilot scheme unless it is satisfied that they include satisfactory provision for any participant other than the board to withdraw from the scheme if he wishes to do so.

(3) Where—

- (a) the Department intends to approve proposals for a pilot scheme; and
- (b) it appears to the Department that the effect of implementing the proposals would be to increase or reduce the number of general medical practitioners in the area of the board concerned,

the Department must have regard to the effect that the proposals, as the Department intends to approve them, are likely to have on the distribution of general practitioners in Northern Ireland.

(4) The Department must notify the board concerned, in writing, of any decision made under this Article.

(5) In this Article “general practitioner” means any, medical practitioner who is providing general medical services or performing personal medical services.

### **Making of pilot schemes**

8.—(1) If the Department approves proposals for a pilot scheme and notifies the board concerned in accordance with Article 7, the board must implement the proposals in accordance with directions given by the Department.

(2) A proposed participant in a pilot scheme (other than the board concerned) may withdraw at any time before the proposals relating to him are implemented.

(3) A pilot scheme, as implemented, may differ from the proposals for the scheme approved by the Department only if the Department agrees to the variation or—

- (a) directions given by the Department (either under paragraph (1) or generally) authorise variations that satisfy specified requirements; and
- (b) the variation satisfies those requirements.

(4) As soon as, is reasonably practicable after implementing proposals for a pilot scheme, the board concerned must (in accordance with any directions given to it by the Department) publish details of the scheme.

### *Reviews of pilot schemes*

### **Reviews of pilot schemes**

9.—(1) At least one review of the operation of each pilot scheme must be conducted by the Department.

(2) Each pilot scheme must be reviewed under this Article before the end of the period of three years beginning with the date on which piloted services are first performed under the scheme.

(3) When conducting a review of a pilot scheme, the Department must give—

- (a) the board concerned, and
- (b) any person providing services under the scheme,

an opportunity to comment on any matter relevant to the review.

(4) Otherwise, the procedure on any review is to be determined by the Department.

#### *Variation and termination of pilot schemes*

#### **Variation and termination of pilot schemes**

**10.**—(1) The Department may by directions require a pilot scheme to be varied by the board concerned in accordance with the directions.

(2) Directions under paragraph (1) may be given—

- (a) in response to a request made by the board or by any other participant in the scheme; or
- (b) on the Department's own initiative.

(3) The Department may give directions authorising boards to vary pilot schemes (otherwise than in response to directions given under paragraph (1)) in such circumstances, and subject to such conditions, as may be specified in the directions.

(4) If the Department is satisfied that a pilot scheme is (for any reason) unsatisfactory, it may give directions to the board concerned requiring the board to bring the scheme to an end in accordance with the terms of the directions.

#### *General*

#### **Relationship between this Part and the 1972 Order**

**11.**—(1) The provisions of the 1972 Order, apart from Article 17(1) (power of Department to direct board to exercise functions on its behalf), apply in relation to functions of the Department under this Part as if they were functions of the Department under Part II of that Order.

(2) The 1972 Order has effect in relation to piloted services—

- (a) subject to any provision of, or made under, this Part; but
- (b) otherwise as if those services were provided as a result of the delegation by the Department (by directions given under Article 17(1) of the 1972 Order) of functions of the Department under Part II of that Order.

(3) The functions of a board in relation to piloted services are primary functions of the board for the purposes of Article 9 of the 1991 Order.

#### **Medical practitioners to be suitably experienced**

**12.**—(1) Any medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme must be suitably experienced.

(2) Paragraph (1) does not prevent the performance of personal medical services by—

- (a) a person who is acting in the course of acquiring the experience prescribed by regulations made under Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978;

- (b) a person who is provisionally registered under section 15 or 21 of the Medical Act 1983, acting in the course of his employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act); or
- (c) such other category of person as may be prescribed.

(3) Paragraphs (2) to (7) of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978 (meaning of “suitably experienced”) apply for the purposes of this Article as they apply for the purposes of Part II of that Order.

### **Leaving medical lists**

13.—(1) Except in such circumstances and to such extent as may be prescribed, a medical practitioner who performs personal medical services in connection with the provision of such services under a pilot scheme may not provide general medical services under Part VI of the 1972 Order.

(2) Except in such circumstances as may be prescribed, a board must remove from its medical lists the name of any medical practitioner who is performing personal medical services in connection with the provision of such services under a pilot scheme made by it or by any other board.

### **Preferential treatment on transferring to medical lists**

14.—(1) Before the Department approves a pilot scheme, it must determine whether a participating medical practitioner is to be given preferential treatment under Schedule 1 if he makes an application for his name to be included in a medical list of the board after ceasing to perform personal medical services under the scheme.

(2) Before a pilot scheme is varied so as to permit a new medical practitioner to perform personal medical services under the scheme, the Department must make a determination under this Article in relation to the new practitioner.

(3) The Department may at any time make a determination under this Article varying a determination about a medical practitioner if it is asked to do so by the practitioner concerned.

(4) Before making any determination under this Article, the Department must publish the criteria by reference to which the Department will make it.

(5) Those criteria may be—

- (a) criteria applying generally to all determinations;
- (b) criteria applying only to the pilot scheme in question; or
- (c) a mixture of both.

(6) The Department must notify the board and the medical practitioner or practitioners concerned in writing of any determination made by it under this Article.

(7) Different determinations may be made with respect to different medical practitioners performing personal medical services under the same pilot scheme.

(8) A determination may identify the medical practitioner or practitioners to which it applies by name or in any other way.

(9) Schedule 1 has effect in relation to preferential treatment for medical practitioners who wish to transfer to medical lists.

### **Returning to fund-holding status**

15.—(1) Regulations must be made providing for a medical practitioner who—

- (a) has provided or performed personal medical services under a pilot scheme; and

(b) in contemplation of doing so, gave up fund-holding status, to be allowed to return immediately to fund-holding status on satisfying the Department that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.

(2) For the purposes of this Article “fund-holding status” has such meaning as may be prescribed.

### **Liabilities and obligations in relation to deputies**

16.—(1) Regulations may make provision with respect to the liabilities and obligations of—

- (a) a Part VI practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a pilot scheme practitioner deputises, or is engaged to deputise, for him; or
- (b) a Part VI practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a pilot scheme practitioner, in connection with that practitioner’s obligation to perform personal medical services under a pilot scheme.

(2) The regulations may, in particular—

- (a) modify any liabilities or obligations which would otherwise be applicable by virtue of Part VI of the 1972 Order;
- (b) apply (with or without modifications) any provision made by or under Part VI of the 1972 Order (including any provision so made by virtue of Article 10 of the Health and Medicines (Northern Ireland) Order 1988).

(3) In this Article—

“Part VI practitioner” means a medical practitioner who provides general medical services; and  
“pilot scheme practitioner” means a medical practitioner who performs personal medical services under a pilot scheme.

### **HSS contracts**

17.—(1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate, that individual or body may make an application under this Article to become a health services body.

(2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this Article to become a single health services body.

(3) An application must—

- (a) be made to the Department in accordance with such provisions as may be prescribed; and
- (b) specify the pilot scheme in relation to which it is made.

(4) Except in such cases as may be prescribed, the Department may grant an application.

(5) If an application is granted, the Department must specify when it is to come into effect and, as from that time—

- (a) in the case of an application under paragraph (1), the applicant is; and
- (b) in the case of an application under paragraph (2), the applicants together are,

a health services body for the purposes of Article 8 of the 1991 Order (HSS contracts).

(6) That Article has effect in relation to such a health services body (“a pilot scheme health services body”) as if the functions referred to in paragraph (1) of that Article were the provision of piloted services.



(7) Except in such circumstances as may be prescribed, a pilot scheme health services body resulting from an application under paragraph (2) is to be treated, at any time, as consisting of those providing piloted services under the scheme.

(8) A direction as to payment made under Article 8(8) of the 1991 Order against, or in favour of, a pilot scheme health services body is enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

(9) Regulations may provide for a pilot scheme health services body to cease to be such a body in prescribed circumstances.

(10) The Department must—

- (a) maintain and publish a list of pilot scheme health services bodies;
- (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.

(11) The list is to be published in such manner as the Department considers appropriate.

#### *Financial provisions*

#### **Funding of preparatory work**

**18.**—(1) Provision may be made by regulations for boards to make payments of financial assistance for preparatory work.

(2) “Preparatory work” means work which it is reasonable for a person to undertake—

- (a) in connection with preparing proposals for a pilot scheme; or
- (b) in preparing for the provision by him of any piloted services.

(3) Regulations under this Article may, in particular, include provision—

- (a) prescribing the circumstances in which payments of financial assistance may be made;
- (b) imposing a limit on the amount of any payment of financial assistance which a board may make in any prescribed period in respect of any one person or any one pilot scheme;
- (c) imposing a limit on the aggregate amount which a board may pay by way of financial assistance in any one financial year;
- (d) requiring a person to whom assistance is given under this Article to comply with such conditions as may be imposed in accordance with prescribed requirements; and
- (e) for repayment in the case of a failure to comply with any condition so imposed.

#### **Fund-holding practices**

**19.** Article 17 of the 1991 Order (recognition of fund-holding practices of doctors) applies—

- (a) in relation to the provision of personal medical services under a pilot scheme as it applies in relation to the provision of general medical services in accordance with arrangements under Article 56 of the 1972 Order; but
- (b) only in relation to medical practitioners who are not employed by another person.

#### **Charges for dental treatment**

**20.**—(1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for dental treatment provided in accordance with pilot schemes.

(2) “Dental treatment” means personal dental services other than those to which paragraph 1(a) (k) of Schedule 15 to the 1972 Order applies.

(3) The regulations must secure that the amount charged for a particular treatment (or course of treatment) is the same as the amount that would be charged for that treatment (or course of treatment) if it were provided under Part VI of the 1972 Order.

(4) The regulations may—

- (a) provide for the amount or the maximum amount of any charge authorised by the regulations to be varied in prescribed circumstances; or
- (b) give power to direct that the charge is not to be payable.

(5) If, under a contract or arrangement, a patient receives—

- (a) services for which a charge is payable under paragraph 1(a)(iaa) of Schedule 15 to the 1972 Order; and
- (b) treatment for which a charge is payable under the regulations,

the total charge for those services and that treatment is not to exceed such sum as may be prescribed.

(6) No charge is to be made under the regulations in respect of treatment provided for any person who, at the time of the making of the contract or arrangement under which the treatment is provided—

- (a) was under 18;
- (b) was under 19 and receiving qualifying full-time education;
- (c) was pregnant; or
- (d) had given birth within the previous twelve months.

(7) In paragraph (6)(b) “qualifying full-time education” has the same meaning as in paragraph 2A(3) of Schedule 15 to the 1972 Order.

(8) The regulations may provide, with respect to any exemption under paragraph (6), that it is to be a condition of the exemption that—

- (a) a declaration of the prescribed kind is made in the prescribed form or manner; or
- (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.

## PART III

### PRIMARY CARE

#### *Personal medical or dental services*

#### **Provision of personal medical or dental services**

**21.** In the 1972 Order, after Article 15A, insert—

#### **“Provision of personal medical or dental services Personal medical or 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) personal medical services are provided (otherwise than by the Board); or
- (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 personal medical services with arrangements for the provision of personal dental services; but
- (b) may include arrangements for the provision of health services—
  - (i) which are not personal medical services or personal dental services; but
  - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
  - (a) a patient for whom personal medical services are provided in accordance with 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 56;
  - (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 personal medical services or 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 under this Part.
- (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—
  - “personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part VI; and
  - “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.

**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 HSS trust;
  - (b) in the case of an agreement under which personal medical services are provided—
    - (i) a qualifying medical practitioner;
    - (ii) an individual who is providing personal medical services in accordance with Article 15B arrangements;
  - (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 HSS employee or an Article 15B employee;
  - (e) a qualifying body.
- (2) In this Article—
- “HSS employee” means an individual who, in connection with the provision of health services, is employed by—

- (a) an HSS trust;
- (b) in the case of an agreement under which personal medical services are provided—
  - (i) a medical practitioner whose name is included in a medical list; or
  - (ii) a medical practitioner who is providing personal medical services in accordance with Article 15B arrangements;
- (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);

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

“Article 15C employee” means an individual who, in connection with the provision of services in accordance with Article 15C arrangements, is employed by an individual providing those services.”.

### **Supplementary regulations**

22. In the 1972 Order, after Article 15C, insert—

#### **“Personal medical or 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 medical practitioners performing personal medical services, and 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;
  - (d) require details of Article 15B arrangements to be published;
  - (e) make provision with respect to the variation and termination of Article 15B arrangements;
  - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with Article 15B arrangements from providing general medical services;
  - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
  - (h) provide for parties to Article 15B arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health services bodies for the purposes of Article 8 of the 1991 Order;
  - (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 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.
- (4) The regulations must include provision for a medical practitioner who—
- (a) has provided or performed personal medical services in accordance with Article 15B arrangements; and
  - (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Department that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.
- For the purposes of this paragraph “fund-holding status” has such meaning as may be prescribed.
- (5) The Department must—
- (a) consider whether Article 15B arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in Northern Ireland;
  - (b) if it thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
  - (c) if it thinks that it is necessary, include such provisions in the regulations.
- (6) Regulations which impose conditions on persons performing personal 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.

- (7) Regulations made by virtue of paragraph (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) Health and Social Services Boards to remove from their medical lists persons who are performing personal medical services in accordance with Article 15B arrangements;
  - (b) conferring a right to transfer to medical lists on persons who have ceased to perform such services;
  - (c) that any provision in relation to medical lists made by or under any statutory provision is not to apply;
  - (d) as to conditions to be attached to entries in medical lists;
  - (e) conferring powers of disqualification on the Tribunal.”.

### **Right to choose medical practitioner**

23. In the 1972 Order, after Article 15D, insert—

#### **“Right to choose medical practitioner**

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

- (a) the consent of the practitioner concerned; and
  - (b) any limit on the number of patients to be accepted by any practitioner.
- (2) In particular the regulations—
- (a) shall prescribe the procedure for choosing a practitioner;
  - (b) may prescribe a limit on the number of patients to be accepted by a medical practitioner who undertakes to provide general medical services under Part VI; and
  - (c) shall provide for the distribution among medical practitioners of persons who have indicated a wish to obtain primary medical services but—
    - (i) have been refused by the medical practitioner of their choice; or
    - (ii) have not chosen a medical practitioner.
- (3) The Department may give directions imposing a limit on the number of patients to be accepted by a medical practitioner who performs personal medical services in accordance with Article 15B arrangements.
- (4) Any such directions may make different provision for different cases or descriptions of case.
- (5) In this Article “primary medical services” means medical services which are—
- (a) provided, in accordance with Article 15B arrangements, as personal medical services; or
  - (b) provided under Part VI as general medical services.”.

### **Right to choose dental practitioner**

24. In the 1972 Order, after Article 15E, insert—

**“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.”.

**Liabilities and obligations in relation to deputies**

**25.** In the 1972 Order, after Article 57, insert—

**“Liabilities and obligations in relation to deputies**

**57A.**—(1) Regulations may make provision with respect to the liabilities and obligations of—

- (a) a Part VI practitioner who, in connection with any obligation of his to provide general medical services, enters into arrangements under which a Part II practitioner deputises, or is engaged to deputise, for him; or
- (b) a Part VI practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a Part II practitioner, in connection with that practitioner’s obligation to perform personal medical services in accordance with Article 15B arrangements.

(2) The regulations may, in particular—

- (a) modify any liabilities or obligations which would otherwise be applicable by virtue of this Part;
- (b) apply (with or without modifications) any provision made by or under this Part (including any provision so made by virtue of Article 10 of the Health and Medicines (Northern Ireland) Order 1988).

(3) In paragraph (1)—

“Part II practitioner” means a medical practitioner who performs personal medical services in accordance with Article 15B arrangements; and

“Part VI practitioner” means a medical practitioner who provides general medical services.”.

**Charges for dental treatment**

**26.** In Schedule 15 to the 1972 Order, after paragraph 1 A insert—

**“1AA.**—(1) Regulations made with the approval of the Department of Finance and Personnel may provide for the making and recovery, in such manner as may be prescribed, of charges for dental treatment provided in accordance with Article 15B arrangements.

(2) “Dental treatment” means personal dental services other than those to which paragraph 1 (a)(k) applies.

(3) The regulations must secure that the amount charged for a particular treatment (or course of treatment) is the same as the amount that would be charged for that treatment (or course of treatment) if it were provided under Part VI.

(4) The regulations may—

- (a) provide for the amount or the maximum amount of any charge authorised by the regulations to be varied in prescribed circumstances; or
- (b) give power to direct that the charge is not to be payable.

(5) If, under a contract or arrangement, a patient receives—

- (a) services for which a charge is payable under paragraph 1(a)(k), and
- (b) treatment for which a charge is payable under the regulations,

the total charge for those services and that treatment is not to exceed such sum as may be prescribed.

(6) No charge is to be made under the regulations in respect of treatment provided for any person who, at the time of the making of the contract or arrangement under which the treatment is provided—

- (a) was under 18;
- (b) was under 19 and receiving qualifying full-time education;
- (c) was pregnant; or
- (d) had given birth within the previous twelve months.

(7) In sub-paragraph (6)(b) “qualifying full-time education” has the same meaning as in paragraph 2A(3).

(8) The regulations may provide, with respect to any exemption under sub-paragraph (6), that it is to be a condition of the exemption that—

- (a) a declaration of the prescribed kind is made in the prescribed form or manner; or
- (b) a certificate of the prescribed kind is supplied in the prescribed form or manner.”.

#### *Pharmaceutical services*

### **Provision of additional pharmaceutical services**

27. In the 1972 Order, after Article 63, insert—

#### **“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.”.

### **Terms and conditions etc.**

**28.** In the 1972 Order, after Article 63A, insert—

#### **“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.”.

### **Authorised provision of pharmaceutical services by medical practitioners**

**29.** In Article 64 of the 1972 Order, after paragraph (1) insert—

“(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.”.

### *HSS contracts*

#### **Provision of certain services under HSS contracts**

**30.** In the 1991 Order, after Article 8 (HSS contracts) insert—

##### **“Provision of certain services under HSS contracts**

**8A.**—(1) This Article applies to any arrangement under which a Health and Social Services Board or such other health services body as may be prescribed arranges for the provision to it—

- (a) by a person on an ophthalmic list, or
- (b) by a person on a pharmaceutical list,

of goods or services that it reasonably requires for the purposes of functions which it is exercising under Part II of the principal Order.

(2) Any such arrangement is to be treated as an HSS contract for the purposes of Article 8 (other than paragraphs (5) and (7)).

(3) In this Article—

“ophthalmic list” means a list published in accordance with regulations made under—

- (a) Article 62(2)(a) of the principal Order;
- (b) section 39(a) of the National Health Service Act 1977; or
- (c) section 26(2)(a) of the National Health Service (Scotland) Act 1978;

“pharmaceutical list” means a list published in accordance with regulations made under—

- (a) Article 63(2A)(a) of the principal Order;
- (b) section 42(2)(a) of the National Health Service Act 1977; or
- (c) section 27(2) of the National Health Service (Scotland) Act 1978.”.

## **PART IV**

### **SUPPLEMENTARY PROVISIONS**

#### **Regulations and directions**

**31.**—(1) Any power under this Order to make regulations is exercisable by the Department.

(2) Any such power includes power to make such incidental, supplemental, consequential or transitional provision as appears to the Department to be appropriate.

(3) Regulations under this Order shall be subject to negative resolution.

(4) Any power under this Order to give directions—

- (a) is to be exercised by an instrument in writing; and
- (b) includes power to vary or revoke the directions by subsequent directions.

(5) Paragraph (2) applies in relation to any power of the Department under this Order to give directions as it applies in relation to any power of the Department to make regulations.

### **Amendments and repeals**

**32.**—(1) The statutory provisions specified in Schedule 2 shall have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.

(3) The Department may by order make such amendments or repeals of any statutory provision passed or made before the date on which this Order is made as appear to the Department necessary or expedient in consequence of any provision of this Order.

(4) An order under paragraph (3)—

- (a) may contain such supplemental, incidental, consequential or transitional provisions and savings as appear to the Department to be necessary or expedient in consequence of any provision of this Order; and
- (b) shall be subject to negative resolution.

*N.H. Nicholls*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 14.

#### PREFERENTIAL TREATMENT ON TRANSFERRING TO MEDICAL LISTS

##### *Cases where preference is given*

1.—(1) This Schedule applies if the Department determines under Article 14 that a medical practitioner is to be given preferential treatment on making an application for his name to be included in a medical list of a board after ceasing to perform personal medical services in connection with the provision of such services under a pilot scheme and the conditions mentioned in sub-paragraph (2) are satisfied.

(2) The conditions are that—

- (a) the practitioner has made an application in the prescribed manner to the board concerned for his name to be included in a medical list of the board (“the relevant list”); and
- (b) his name has not been included in that list since he ceased to perform the services under the scheme.

##### *The preferential treatment*

2.—(1) The board must include the applicant’s name in the relevant list unless—

- (a) the applicant is not eligible for inclusion in that list by virtue of a direction under paragraph 4;
- (b) he is otherwise not eligible for inclusion in that list; or
- (c) the question of whether to give a direction under paragraph 4 is not resolved.

(2) Regulations may make provision as to conditions to be attached to the applicant’s entry in the relevant list in such cases.

##### *Representations against preferential treatment*

3.—(1) The Tribunal must inquire into any representations by the board that the inclusion of the applicant’s name in the relevant list would be prejudicial to the efficiency of the general medical services provided in its area.

(2) The Tribunal may inquire into any similar representations by any other person.

(3) Where any representations of a kind mentioned in sub-paragraph (1) or (2) are made to the Tribunal and the applicant withdraws his application without the consent of the Department, the Tribunal may proceed to inquire into any of the representations, and exercise the powers in relation to disqualification conferred on it by this Schedule, as if the application had not been withdrawn.

(4) The representations must be made in the prescribed manner and before the end of such period as may be prescribed.

(5) Regulations may make provision for the publication of information about—

- (a) applications to which this Schedule relates; and
- (b) the right to make representations about such applications.

#### *Power of Tribunal to give directions*

4.—(1) If the Tribunal considers that the inclusion of the applicant's name in the relevant list would be prejudicial to the efficiency of the general medical services provided in the board's area, it—

- (a) must direct that the applicant's name is not to be included in that list; and
- (b) may, if it thinks fit, direct that his name is not to be included—
  - (i) in any other medical list; or
  - (ii) in any other specified medical list or lists.

(2) If the Tribunal gives a direction under sub-paragraph (1)(b)(i) it may also, if it thinks fit, declare that the applicant is not fit to be engaged in any capacity in the provision of general medical services.

(3) A direction by the Tribunal under this paragraph is binding on the board or boards concerned as from the time when the direction is given.

#### *Termination of directions*

5.—(1) A person's name may not be included (whether by virtue of paragraph 2 or otherwise) in any medical list to which a direction under paragraph 4 relates before the Tribunal gives a direction to the contrary under this paragraph.

(2) For the purpose of deciding whether or not to give a direction under this paragraph, the Tribunal may hold an inquiry.

#### *Directions in Great Britain*

6. A person's name may not be included in any medical list (whether by virtue of paragraph 2 or otherwise) if he is prevented under provisions in Great Britain which correspond to this Schedule from being included in all corresponding lists there.

#### *Regulations*

7.—(1) Regulations must provide—

- (a) for inquiries under this Schedule to be held in accordance with such procedure as may be prescribed by or determined under the regulations;
- (b) for conferring on the Tribunal such powers as the Department considers necessary; and
- (c) for the publication of decisions of the Tribunal under the regulations and of the imposition and removal of any disqualifications imposed under paragraph 6.

(2) The regulations must, in particular—

- (a) provide for any person who is the subject of an inquiry to have an opportunity—
  - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal; and
  - (ii) of being heard by the Tribunal and of calling witnesses and producing other evidence on his behalf; and

- (b) provide for the hearing to be in public if the person who is the subject of the inquiry so requests.

### *Interpretation*

8. For the purposes of this Schedule the question of whether to give a direction under paragraph 4 is resolved if—

- (a) the period for making representations under paragraph 3 has ended without the Tribunal receiving any such representations;
- (b) such representations have been received but the Tribunal has decided—
  - (i) not to inquire into them; or
  - (ii) not to give a direction under paragraph 4; or
- (c) a direction has been given by the Tribunal.

## SCHEDULE 2

Article 32(1).

### AMENDMENTS

#### *The Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14)*

In Article 2(2) insert at the appropriate places—

““Article 15B arrangements” means arrangements under Article 15B;

“health services body” has the meaning given in Article 8(2A) of the 1991 Order;

“medical lists”, in relation to a Health and Social Services Board, means—

- (a) the list of medical practitioners undertaking to provide general medical services (other than maternity medical services) for persons in its area, kept by the Board under regulations under Article 56(2)(a); and
- (b) the list of medical practitioners undertaking to provide maternity medical services for persons in its area, kept by the Board under regulations under Article 56(2)(b);

“personal dental services” has the meaning given in Article 15B(6);

“personal medical services” (except in Article 56) has the meaning given in Article 15B(6);

“statutory provision” has the meaning given in section 1(f) of the Interpretation Act (Northern Ireland) 1954;”.

In Article 11(2) after “Part VI” insert “and every person providing, and every medical practitioner performing, personal medical services in accordance with Article 15B arrangements”.

In Article 17 after paragraph (1) insert—

“(1ZA) A Health and Social Services Board shall, in accordance with regulations and directions, perform such functions in relation to Article 15B arrangements as may be prescribed.

(1ZB) Regulations under paragraph (1ZA) may, in particular—

- (a) prescribe functions in relation to training;
- (b) provide for appeals to the Department or a prescribed body in relation to functions prescribed by the regulations.”.

In Article 52(2) at the end add—

“(g) the Health Services (Primary Care) (Northern Ireland) Order 1997.”.

In Article 56(2), omit sub-paragraphs (e) and (f).

In Article 61(2), omit sub-paragraph (c).

In Article 63(1) for the words from “and the provision of drugs” to the end substitute “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”.”.

In Article 64(2) after “Article 63(1)(c)” insert “, or additional pharmaceutical services provided in accordance with a direction under Article 63A.”.

In Article 68(1)(a) for the words from “persons providing” to “Part VI” substitute “persons—

- (i) providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, or
- (ii) providing, in accordance with Article 15B arrangements, personal medical services, personal dental services or other services of a kind that may be provided under Part VI.”.

In Schedule 10, renumber paragraph 1 as sub-paragraph (1) of that paragraph and at the end of that paragraph insert—

“(2) Where a person has at any time provided or performed personal medical services in accordance with Article 15B arrangements, it shall be unlawful subsequently to sell the goodwill or any part of the goodwill of the medical practice of that medical practitioner.”.

In Schedule 11, in paragraph 5A, in sub-paragraph (2) after “sub-paragraph (1)(c)” insert “as it has effect in relation to the functions mentioned below” and after that sub-paragraph insert—

“(2A) In sub-paragraph (1)(c) as it has effect in relation to functions of the Tribunal conferred by or under any statutory provision relating to the preferential treatment of medical practitioners on transferring to medical lists, the reference to the person concerned is a reference to the medical practitioner to whom the matter before the Tribunal relates.”.

#### *The Dentists Act 1984 (c. 24)*

In section 53(3)(a)(iii) for “or 9” substitute “, 9 or 15B”.

#### *The Health and Medicines (Northern Ireland) Order 1988 (NI 24)*

In Article 10 at the end add—

“(4) This Article applies also in relation to additional pharmaceutical services provided in accordance with a direction under Article 63A of the principal Order.”.

#### *The Health and Personal Social Services (Northern Ireland) Order 1991 (NI 1)*

In Article 8 after paragraph (2) insert—

“(2A) The bodies mentioned in paragraph (2) may be referred to as “health services bodies”.”.

In Article 10 after paragraph (5) insert—

“(5A) The functions of an HSS trust also include power to provide services in accordance with arrangements made under Article 15B of the principal Order, and to do so as a member of a qualifying body (within the meaning of Article 15C of that Order).”.

In Article 17(1) after “Order” insert “, or (in the case of practitioners who are not employed by another person) personal medical services in accordance with arrangements made under Article 15B of that Order”.

In Article 18(4) for sub-paragraph (b) substitute—

- “(b) provide that the goods and services (other than general medical services or personal medical services provided in accordance with arrangements made under Article 15B of the principal Order) which may be purchased by or on behalf of the members of a practice out of allotted sums for practice patients shall be such as may be specified in a list approved for the purpose under the regulations; and”.

In Article 18 for paragraph (7) substitute—

“(7) In relation to a Part VI medical practitioner—

- (a) whose name is included in the medical lists of only one Health and Social Services Board, and
- (b) who practises on his own or in partnership with others all of whom are Part VI medical practitioners whose names are included only in that Board’s medical lists,

the reference in paragraph (5) to the relevant Health and Social Services Board is to be construed as a reference to that Board.

(8) In relation to a medical practitioner who is not within paragraph (7), that reference is to be construed as a reference to the Health and Social Services Board in whose area most of the practice patients live.

(9) In this Article—

“Part VI medical practitioner” means a medical practitioner who provides general medical services under Part VI of the principal Order and does not perform personal medical services in accordance with arrangements made under Article 15B of that Order; and

“practice patient” means—

- (a) in relation to a medical practitioner who practises otherwise than in partnership, an individual who is on that practitioner’s list of patients (or, if that practitioner and one or more other medical practitioners together have a single list of patients in connection with Article 15B arrangements, an individual who is on that single list);
- (b) in relation to a medical practitioner who is one of two or more practitioners who practise in partnership with each other, an individual who is on the list of patients of any of those practitioners (or, if any of those practitioners together have a single list of patients in connection with Article 15B arrangements, an individual who is on that single list).”.

In Article 21(1) for “paragraph (2)” substitute “paragraphs (2) and (8)”.

In Article 21(3)—

- (a) in sub-paragraph (a) after “who” insert “is on a medical list of a Health and Social Services Board and”; and
- (b) for sub-paragraph (b) substitute—

“(b) in a case of two or more medical practitioners who practise in partnership with each other, each medical practitioner who is on a medical list of a Health and Social Services Board;”.

In Article 21 after paragraph (8) insert—

“(9) This Article does not apply in relation to the performance or provision of personal medical services in accordance with arrangements made under Article 15B of the principal Order.”.

*The Access to Health Records (Northern Ireland) Order 1993 (NI 4)*

In Article 2(2) in the definition of “general practitioner” for the words from “providing” to the end substitute

“providing—



- (a) general medical services in accordance with arrangements made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972; or
- (b) personal medical services in accordance with arrangements made under Article 15B of that Order;”.

In Article 3(2) for sub-paragraph (a) substitute—

- “(a) in the case of a record made by a general practitioner (other than an employed practitioner), or by a health professional employed by such a general practitioner—
- (i) the general practitioner on whose list the patient is included (or, where the patient is included on the list of a medical practice consisting of two or more partners who are general practitioners, any such partner); or
  - (ii) where the patient is not on any such list, the Health and Social Services Board by arrangement with which a general practitioner last treated him;”.

*The Trade Union and Labour Relations (Northern Ireland) Order 1995 (NI 12)*

In Article 144—

- (a) after “person” insert “performing personal medical services or personal dental services”;
- (b) after “Article” insert “15B;”.

SCHEDULE 3

Article 32(2).

REPEALS

Number	Short title	Extent of repeal
<a href="#">1972 NI 14.</a>	The Health and Personal Social Services (Northern Ireland) Order 1972.	Article 56(2)(e) and (f).  Article 61(2)(c).
<a href="#">1991 NI 1.</a>	The Health and Personal Social Services (Northern Ireland) Order 1991.	Article 31(1)(a)(iii).

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of the National Health Service (Primary Care) Act 1997 (except sections 32 to 34). The Order enables the making of new arrangements for the provision of services presently provided by general medical practitioners and general dental practitioners under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972.