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STATUTORY INSTRUMENTS

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**1997 No. 1177**

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

**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 [<sup>F1</sup>health care]—
  - (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 [F<sup>2</sup>HSC 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 [F<sup>3</sup>HSC employee] or an Article 15B employee;
- (e) a qualifying body.

(2) In this Article—

“[F<sup>3</sup>HSC employee]” means an individual who, in connection with the provision of [F<sup>1</sup>health care], is employed by—

- (a) an [F<sup>2</sup>HSC 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.”.

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| <b>F1</b> | Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1)</a> , ss. 32, 34(3), <b>Sch. 6 para. 1(1)(b)</b> (with Sch. 6 para. 1(3)); S.R. 2009/114, <b>art. 2</b> |
| <b>F2</b> | Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1)</a> , ss. 32, 34(3), <b>Sch. 6 para. 1(1)(d)</b> (with Sch. 6 para. 1(3)); S.R. 2009/114, <b>art. 2</b> |
| <b>F3</b> | Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1)</a> , ss. 32, 34(3), <b>Sch. 6 para. 1(1)(f)</b> (with Sch. 6 para. 1(3)); S.R. 2009/114, <b>art. 2</b> |

## 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 [<sup>F4</sup>health care] 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.”.

**F4** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

*Art. 23 rep. by 2004 NI 2*

### **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.”.

*Art. 25 rep. by 2004 NI 2*

### **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**

<sup>F5</sup>27. ....

**F5** Art. 27 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 184](#); S.R. 2022/102, art. 2(b)

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

<sup>F6</sup>28. ....

**F6** Art. 28 omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 184](#); S.R. 2022/102, art. 2(b)

#### **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.”

### *[<sup>F7</sup>HSC contracts]*

**F7** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(e\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

### Provision of certain services under [<sup>F8</sup>HSC contracts]

30. In the 1991 Order, after Article 8 ([<sup>F8</sup>HSC contracts]) insert—

#### “Provision of certain services under [<sup>F8</sup>HSC contracts]

8A.—(1) This Article applies to any arrangement under which a Health and Social Services Board or such other [<sup>F9</sup>health care] 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 [<sup>F10</sup>HSC 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.”.

**F8** Words in Order substituted (1.4.2009) by virtue of [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(e\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**F9** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(b\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**F10** Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), ss. 32, 34(3), [Sch. 6 para. 1\(1\)\(e\)](#) (with [Sch. 6 para. 1\(3\)](#)); S.R. 2009/114, [art. 2](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Health Services (Primary Care) (Northern Ireland) Order 1997, PART III.