



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART I

#### THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

##### *Fund-holding practices*

#### **14 Recognition of fund-holding practices of doctors.**

(1) Any one or more medical practitioners who are providing general medical services in accordance with arrangements under section 29 of the principal Act may apply to the [<sup>F1</sup>Secretary of State] for recognition as a fund-holding practice.

(2) The [<sup>F1</sup>Secretary of State] shall not grant recognition as a fund-holding practice unless the medical practitioner or, as the case may be, each of the medical practitioners concerned fulfils such conditions as may be prescribed.

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

<sup>F2</sup>(5) .....

(6) Regulations may make provision with respect to—

- (a) the making of applications under subsection (1) above;
- (b) the granting and refusal of recognition as a fund-holding practice;
- (c) the conditions to be fulfilled for obtaining and continuing to be entitled to such recognition;

<sup>F3</sup>(d) .....

- (e) withdrawing from, or becoming a member of, an existing recognised fund-holding practice;

*Status: Point in time view as at 01/04/1996.*

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- (f) the continuity or otherwise of a recognised fund-holding practice in the event of the death or withdrawal of a member or the addition of a new member; and
- (g) the operation of this section in a case where one or more of the medical practitioners wishing to make an application under subsection (1) above is also on the medical list of a health board;

and regulations making the provision referred to in paragraph (g) above may make such modifications of the preceding provisions of this section as the Secretary of State considers appropriate.

**Textual Amendments**

- F1** Words in s. 14(1)(2) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1) (3), **Sch. 1 Pt. II para. 73(a)** (with Sch. 2 paras. 6, 16)
- F2** S. 14(3)-(5) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1), 5, Sch. 1 Pt. II para. 73(b), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F3** S. 14(6)(d) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1), 5, Sch. 1 Pt. II para. 73(c), **Sch. 3** (with Sch. 2 paras. 6, 16)

**15 Payments to recognised fund-holding practices.**

[<sup>F4</sup>(1) In respect of each financial year, every Health Authority shall be liable to pay to the members of each recognised fund-holding practice in relation to which they are the relevant Health Authority a sum determined by the Secretary of State in such manner and by reference to such factors as the Secretary of State may direct (in this section referred to as an “allotted sum”).]

<sup>F5</sup>(2) .....

- (3) The liability to pay an allotted sum under subsection (1) <sup>F6</sup>... above may be discharged, in whole or in part, in either of the following ways—
  - (a) by making payments on account of the allotted sum at such times and in such manner as the Secretary of State may direct; and
  - (b) by discharging liabilities of the members of the practice to any other person (including, in particular, liabilities under NHS contracts);

and any reference in the following provisions of this Part of this Act to payment of or of a part of an allotted sum includes a reference to the discharge, in accordance with this subsection, of the whole or part of the liability to pay that sum.

[<sup>F7</sup>(4) In any case where—

- (a) a Health Authority make a payment of, or of any part of, an allotted sum to the members of a recognised fund-holding practice, and
- (b) some of the individuals on the list of patients of any of the members of the practice reside in the area of another Health Authority, or in the area of a Health Board,

the Health Authority making the payment shall be entitled to recover from that other Health Authority, or from that Health Board, an amount equal to such portion of the payment as may be determined in accordance with directions given by the Secretary of State.]

(5) .....

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- (6) The members of a recognised fund-holding practice may apply an allotted sum only for purposes specified in regulations under subsection (7) below.
- (7) Regulations shall make provision with respect to the purposes for which allotted sums are to be or may be applied and may make provision generally with respect to the operation of recognised fund-holding practices in relation to allotted sums; and the regulations may, in particular,—
- (a) require the members of a practice to pay to the relevant [<sup>F8</sup>Health Authority] out of allotted sums paid to them an amount determined in accordance with the regulations as the basic cost of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice;
  - (b) provide that the goods and services, other than general medical services, which may be purchased by or on behalf of the members of a practice out of allotted sums for the individuals on the lists of patients of the members of the practice shall be such as may be specified in a list approved for the purpose under the regulations; and
  - (c) impose a limit on the amount which may be spent out of an allotted sum on the provision of goods and services for any one individual, being a limit above which the cost of any goods and services for that individual in the financial year in question will fall to be met by the [<sup>F9</sup>Health Authority] whose primary functions include the provision of goods and services (not necessarily the goods and services in question) to the individual concerned.

<sup>F5</sup>(8) .....

- (9) In accordance with directions under section 17 of the principal Act, the relevant [<sup>F10</sup>Health Authority] shall monitor the expenditure of the members of a recognised fund-holding practice and may institute an audit and review in any case where the [<sup>F10</sup>Health Authority] consider it necessary to do so.

#### Extent Information

- E1** S. 15 other than s. 15(4) does not extend to Scotland

#### Textual Amendments

- F4** S. 15(1) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(a)** (with Sch. 2 paras. 6, 16)
- F5** S. 15(2)(5) and (8) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), **Sch. 1 para. 74(b)(e)** and (g), Sch. 3 (with Sch. 2 paras. 6, 16)
- F6** Words in s. 15(3) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), **Sch. 1 para. 74(c)**, **Sch. 3** (with Sch. 2 paras. 6, 16)
- F7** S. 15(4) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(d)** (with Sch. 2 paras. 6, 16)
- F8** Words in s. 15(7)(a) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(f)(i)** (with Sch. 2 paras. 6, 16)
- F9** Words in s. 15(7)(c) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(f)(ii)** (with Sch. 2 paras. 6, 16)
- F10** Words in s. 15(9) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(h)** (with Sch. 2 paras. 6, 16)

#### Commencement Information

- I1** S. 15 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

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## 16 Renunciation and removal of recognition as a fund-holding practice and withholding of funds.

- (1) Regulations may make provision as to the circumstances in which the members of a recognised fund-holding practice may renounce that status and such regulations may, in particular, make provision as to—
- the notice to be given and the number of members of the practice by whom it is to be given;
  - the procedure to be followed; and
  - the consequences of such a renunciation.
- (2) Regulations may make provision as to the circumstances in which and the grounds on which <sup>F11</sup> . . . the Secretary of State may remove recognition from the members of a fund-holding practice,—
- with immediate effect; or
  - with effect from the end of a particular financial year; or
  - with effect from such other date as may be specified by <sup>F12</sup> . . . the Secretary of State.
- (3) Where provision is made as mentioned in subsection (2) above, regulations shall make provision with respect to—
- the procedure for the removal of recognition;
  - <sup>F13</sup> . . . and
  - the consequences of the removal of recognition.
- (4) Without prejudice to the generality of the powers conferred by subsection (3) above, regulations making provision as mentioned in paragraph (c) of that subsection—
- may provide for the transfer of rights and obligations from the members of the fund-holding practice to one or more [<sup>F14</sup>Health Authorities] determined in accordance with the regulations;
  - may provide for the recovery of sums from the members of the practice; and
  - may require the members of the practice to furnish such information as may reasonably be required by <sup>F15</sup> . . . the Secretary of State.
- <sup>F16</sup>(5) . . . . .
- (6) Where any part of an allotted sum has been applied by the members of a recognised fund-holding practice (or any one or more of them) for purposes other than those specified in regulations under section 15(7) above, regulations may make provision for and in connection with the recovery by the relevant [<sup>F17</sup>Health Authority of an amount equal to that determined by the Secretary of State as having been so applied].
- <sup>F18</sup>(7) . . . . .

### Textual Amendments

- F11** Words in s. 16(2) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(a)(i), Sch. 3 (with Sch. 2 paras. 6, 16)
- F12** Words in s. 16(2) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(a)(ii), Sch. 3 (with Sch. 2 paras. 6, 16)
- F13** Words in s. 16(3)(b) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(b), Sch. 3 (with Sch. 2 paras. 6, 16)

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- F14** Words in s. 16(4) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 75(c)(i)** (with Sch. 2 paras. 6, 16)
- F15** Words in s. 16(4) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(c)(ii), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F16** S. 16(5) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(d), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F17** Words in s. 16(6) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 75(e)** (with Sch. 2 paras. 6, 16)
- F18** S. 16(7) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 75(f), **Sch. 3** (with Sch. 2 paras. 6, 16)

#### Commencement Information

- I2** S. 16 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

## 17 Transfer of functions relating to recognised fund-holding practices.

- (1) If the Secretary of State by regulations so provides, such of the functions of <sup>F19</sup> . . . the Secretary of State under sections 14 to 16 above as are specified in, or determined in accordance with, the regulations shall become functions of a [<sup>F20</sup>Health Authority] with effect from such date as may be prescribed.
- (2) Regulations under this section shall make provision for determining the [<sup>F21</sup>Health Authority] which is to exercise any of the functions concerned in relation to the members of any existing recognised fund-holding practice and in relation to any medical practitioners wishing to apply for recognition.
- [<sup>F22</sup>(2A) Where regulations under this section provide for any function of the Secretary of State to become a function of a Health Authority, the regulations may make provision for and in connection with appeals against any decision made, or other thing done, in exercise of the function.]
- (3) Without prejudice to the generality of section 126(4) of the principal Act, regulations under this section may make such incidental and consequential modifications of the principal Act and of sections 14 to 16 above as appear to the Secretary of State to be necessary or expedient in consequence of the transfer of functions effected by the regulations.

#### Textual Amendments

- F19** Words in s. 17(1) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 76(a)(i), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F20** Words in s. 17(1) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 76(a)(ii)** (with Sch. 2 paras. 6, 16)
- F21** Words in s. 17(2) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 76(b)** (with Sch. 2 paras. 6, 16)
- F22** S. 17(2A) inserted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 76(c)** (with Sch. 2 paras. 6, 16)

#### Commencement Information

- I3** S. 17 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

**Status:**

Point in time view as at 01/04/1996.

**Changes to legislation:**

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