



National Health Service (Primary Care) Act 1997

1997 CHAPTER 46

PART I

PILOT SCHEMES FOR PRIMARY CARE

General

9 Relationship between this Part and the 1977 Act

- (1) The provisions of the 1977 Act, apart from section 13 (power of Secretary of State to direct a Health Authority to exercise functions on his behalf), apply in relation to functions of the Secretary of State under this Part (exercisable in relation to England and Wales) as if they were functions of his under Part I of the 1977 Act.
- (2) The 1977 Act (and in particular section 17) 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 Secretary of State (by directions given under section 13 of the 1977 Act) of functions of his under Part I of that Act.
- (3) The functions of a Health Authority in relation to piloted services are primary functions of the Authority for the purposes of the National Health Service and Community Care Act 1990.

10 Relationship between this Part and the 1978 Act

- (1) The provisions of the 1978 Act apply in relation to functions of the Secretary of State under this Part (exercisable in relation to Scotland) as if they were functions of his under Part I of the 1978 Act.
- (2) The 1978 Act (and in particular section 2) 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 Secretary of State (by regulations made or directions given under section 2 of the 1978 Act) of functions of his under that Act.

11 Medical practitioners to be suitably experienced

- (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) Subsection (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 section 32 of the 1977 Act or section 22 of the 1978 Act;
 - (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) Sections 31(2) and 32 of the 1977 Act (meaning of “suitably experienced”) apply for the purposes of this section as they apply for the purposes of section 31 of that Act.
- (4) In its application by virtue of subsection (3), section 32 of the 1977 Act is to be read as if references to the applicant were references to a medical practitioner who is proposing to perform personal medical services in connection with the provision of such services under a pilot scheme.
- (5) Sections 21(2) and 22 of the 1978 Act (meaning of “suitably experienced”) apply for the purposes of this section as they apply for the purposes of section 21 of that Act.
- (6) In its application by virtue of subsection (5), section 22(2) of the 1978 Act is to be read as if references to the applicant were references to a medical practitioner who is proposing to perform personal medical services in connection with the provision of such services under a pilot scheme.

12 Leaving medical lists

- (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 II of the 1977 Act or Part II of the 1978 Act.
- (2) Except in such circumstances as may be prescribed, an authority must remove from their medical list 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 them or by any other authority.

13 Preferential treatment on transferring to medical lists

- (1) Before the Secretary of State approves a pilot scheme, he 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 the authority's medical list 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 Secretary of State must make a determination under this section in relation to the new practitioner.
- (3) The Secretary of State may at any time make a determination under this section varying a determination about a medical practitioner if he is asked to do so by the practitioner concerned.
- (4) Before making any determination under this section, the Secretary of State must publish the criteria by reference to which he 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 Secretary of State must notify the authority and the medical practitioner or practitioners concerned in writing of any determination made by him under this section.
- (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.

14 Returning to fund-holding status

- (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 Secretary of State 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 section “fund-holding status” has such meaning as may be prescribed.

15 Liabilities and obligations in relation to deputies

- (1) Regulations may make provision with respect to the liabilities and obligations of—
 - (a) a Part II 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 II practitioner who enters into arrangements under which he deputises, or is engaged to deputise, for a pilot scheme practitioner, in connection with

Status: This is the original version (as it was originally enacted).

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 II of the 1977 Act or Part II of the 1978 Act;
 - (b) apply (with or without modifications) any provision made by or under Part II of the 1977 Act or Part II of the 1978 Act (including any provision so made by virtue of section 17 of the Health and Medicines Act 1988).
- (3) In this section—
- “Part II 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.

16 NHS contracts

- (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 section to become a health service 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 section to become a single health service body.
- (3) An application must—
 - (a) be made to the Secretary of State 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 Secretary of State may grant an application.
- (5) If an application is granted, the Secretary of State must specify when it is to come into effect and, as from that time—
 - (a) in the case of an application under subsection (1), the applicant is, and
 - (b) in the case of an application under subsection (2), the applicants together are, a health service body for the purposes of section 4 of the National Health Service and Community Care Act 1990 and section 17A of the 1978 Act (NHS contracts).
- (6) Those sections have effect in relation to such a health service body (“a pilot scheme health service body”), acting as acquirer, as if the functions referred to in subsection (1) of those sections were the provision of piloted services.
- (7) Except in such circumstances as may be prescribed, a pilot scheme health service body resulting from an application under subsection (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 section 4(7) of the Act of 1990 or section 17A(8) of the 1978 Act against, or in favour of, a pilot scheme health service body is enforceable—
 - (a) in England and Wales, in a county court (if the court so orders) as if it were a judgment or order of that court; and

- (b) in Scotland, in like manner as an extract registered decree arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (9) Regulations may provide for a pilot scheme health service body to cease to be such a body in prescribed circumstances.
- (10) The Secretary of State must—
 - (a) maintain and publish a list of pilot scheme health service 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 Secretary of State considers appropriate.

17 The Dental Practice Boards

- (1) Regulations may confer such powers or impose such duties on the Board, in relation to pilot schemes under which personal dental services are provided, as may be prescribed.
- (2) The regulations may, in particular, make any of the following kinds of provision.
- (3) They may authorise or require the Board—
 - (a) to perform on behalf of an authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the authority in accordance with a power conferred by the regulations;
 - (b) to conduct or commission surveys or other research;
 - (c) to carry on such other activities as may be prescribed.
- (4) They may provide that functions conferred by the regulations are only to be exercised by the Board in accordance with directions of the Secretary of State.
- (5) They may enable the Board to direct a dental practitioner to submit to the Board, in relation to treatment or a description of treatment that he has carried out or contemplates carrying out, such information (including estimates, radiographs, models and other items) as may be prescribed.
- (6) In this section “the Board” means—
 - (a) in relation to England and Wales, the Dental Practice Board; and
 - (b) in relation to Scotland, the Scottish Dental Practice Board.