

HEALTH AND SOCIAL CARE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: National Health Service

Health Service Funding

General and personal medical services, general dental services, general ophthalmic services and pharmaceutical services

Section 24: Supplementary lists

112. *Section 24* amends the 1977 Act to extend the existing Health Authority list systems to embrace all people who assist in the provision of family health services (i.e. otherwise than as principals in their own right).
113. This section inserts new section 43D into the 1977 Act. *Subsection (1)* of that section provides powers to make regulations providing for the preparation and publication by each Health Authority of lists covering practitioners (locums, deputies, or employees) assisting in the provision of GMS, GDS, GOS and PhS. *Subsection (2)* of the new section provides that such a list is to be referred to as a “supplementary list”.
114. New section 43D(3) sets out provisions which (among others) may be included in the regulations about supplementary lists.
115. Paragraph (a) provides powers to prescribe the Health Authority to which an application for inclusion in a supplementary list should be made.
116. Under paragraph (b), the regulations may make provision about the procedure for applying for inclusion in a list. This may include details of the information to be supplied to the Health Authority, either directly by or by arrangement with an applicant, in order for that Authority to assess the applicant’s suitability.
117. Paragraph (c) enables provision to be made about the grounds on which a Health Authority may or must refuse an application for inclusion in a list. This includes reasons of unsuitability or other grounds. For example, regulations might require a Health Authority to refuse entry to a list where the applicant has a conviction for murder. Regulations might also require a Health Authority to have regard to, but not be bound by previous decisions by other Health Authorities concerning the applicant’s inclusion or otherwise in their lists. The Health Authority would, however, be bound by national disqualification decisions issued by the FHSAA (see section 25). Provision may be made under paragraph (e) as to the grounds on which a Health Authority may, or must suspend or remove a person from a supplementary list and the procedure for doing so.
118. Provisions may be made under paragraph (f) about payments to be made to or in respect of suspended practitioners. Applicants for inclusion in a list and practitioners already included may, under paragraph (g), be required to supply the Health Authority with criminal conviction or criminal record certificates. Paragraph (h) provides that

*These notes refer to the Health and Social Care Act 2001
(c.15) which received Royal Assent on 11 May 2001*

regulations may make provision to prevent a person withdrawing from a Health Authority supplementary list (for example, during any period a practitioner is under investigation which might result in removal or during any period awaiting removal from a list). Under paragraph (k), regulations may provide for the disclosure by Health Authorities to prescribed persons or persons of prescribed descriptions of specified information about applicants applying for inclusion in a supplementary list as well as refusals of such applications and suspensions and removals from lists.

119. Section 43D(4) provides for regulations to make provision for a person's inclusion in a list to be subject to conditions determined by the Health Authority. The Health Authority may vary these conditions or impose different ones. The regulations will also set out the consequences of a person failing to comply with a condition, which could include removal from the list. They may also provide for the Health Authority to review their decisions to conditionally include a person in the list. Section 43D(5) requires that the imposition of conditions must relate to preventing any prejudice to the efficiency of the service or preventing any fraudulent act.
120. Section 43D(6) allows provision to be made about supplementary lists which corresponds to provision which may be made about principal lists under sections 49F to 49N (which are inserted by *section 25*).
121. Section 43D(7) requires that, if regulations make provision for a Health Authority to suspend or remove a practitioner from a supplementary list, the regulations must also include provision for a practitioner to be given notice of any allegation against him; for him to put his case at a hearing before the Health Authority makes a decision; and for him to be informed of the Health Authority's decision, the reasons for it and any right of appeal.
122. Section 43D(8) provides that if regulations provide for the removal of a person from a supplementary list, or for refusal to include him in one (other than a compulsory removal or refusal) they must also provide for an appeal, by re-determination, to the FHSAA against the Health Authority's decision to do so.
123. If the regulations make provision under section 43D(4), they must also provide for an appeal, by re-determination, to the FHSAA against any Health Authority decision to impose conditions on a person's inclusion in a supplementary list; to vary a condition, to remove a person from a list for failing to comply with a condition or any review of an earlier decision.
124. Section 43D(10) provides for regulations requiring that practitioners on one of the main lists may not employ or engage a person to assist them in the provision of the respective family health service, unless that person is included in one of the main lists, a supplementary list, or a services list established under *section 26* or a similar list in respect of local pharmaceutical services. However, by virtue of section 43D(11), regulations need not require the two people concerned to be on lists held by the same Health Authority, but they may require that someone must be on a relevant list held by an English Health Authority if they are to be engaged to assist in providing services in England, and on a Welsh Health Authority's list to be engaged in Wales. The intention is to help those, such as locum doctors, who work across Health Authority boundaries by normally requiring them to join just one, rather than several, supplementary lists.