

HEALTH AND SOCIAL CARE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: National Health Service

Health Service Funding

Personal medical services and personal dental services

Section 26: PMS and PDS lists

139. *Section 26* introduces new arrangements further extending the Health Authority list system to include those practitioners who may perform personal medical services “PMS” and personal dental services “PDS”. These arrangements are substantially identical to those relating to supplementary lists.
140. *Subsection (1)* inserts new section 28DA 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 of medical and dental practitioners who may perform PMS and PDS. *Subsection (2)* of the new section provides that such a list is to be referred to as a “services list”.
141. Section 28DA(3) sets out provisions which (among others) may be included in regulations about services lists.
142. Paragraph (a) provides powers to prescribe the Health Authority to which an application for inclusion in a services list should be made.
143. Under paragraph (b), the regulations may make provision for 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 arranged by an applicant, in order for that Authority to assess the applicant’s suitability.
144. 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 on 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 services list and the procedure for doing so.
145. Provision 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 services 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 services list as well as refusals of such applications and suspensions and removals of practitioners from a services list.

146. Section 28DA(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 practitioner 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 28DA(5) requires that the imposition of conditions must relate to preventing any prejudice to the efficiency of the service or preventing any fraudulent act.
147. Regulations under section 28DA(6) may require that no person may perform PMS or PDS unless they are included in either a medical or dental list, a supplementary list or a services list.
148. Section 28DA(7) allows provision to be made about services lists which corresponds to provision which may be made about principal lists under sections 49F to 49N (which are inserted by [section 25](#)).
149. Section 28DA(8) requires that, if the regulations make provision for a Health Authority to suspend or remove a practitioner from a services 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.
150. Section 28DA(9) provides that any regulations providing for the removal of a person from a services list or a refusal to include him in one (other than a compulsory removal or refusal) must also provide for an appeal, by re-determination, to the FHSAA against the Health Authority's decision.
151. If the regulations make provision under section 28DA(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 services 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.
152. *Subsection (2)* inserts a new section 8ZA into the National Health Service (Primary Care) Act 1997 introducing similar provisions in relation to PMS and PDS pilot schemes.