



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 1

#### NATIONAL HEALTH SERVICE

##### *Personal medical services and personal dental services*

#### 26 PMS and PDS lists

[<sup>F1</sup>(1) After section 28D of the 1977 Act there shall be inserted—

**“ Lists of persons who may perform personal medical services or personal dental services**

- (1) The Secretary of State may make regulations providing for the preparation and publication [<sup>F2</sup>by each Primary Care Trust and] by each Health Authority of one or more lists of—
  - (a) medical practitioners who may perform personal medical services in accordance with section 28C arrangements,
  - (b) dental practitioners who may perform personal dental services in accordance with section 28C arrangements.
- (2) Such a list is referred to in this section as a “services list”.
- (3) The regulations may, in particular, include provision as to—
  - (a) the [<sup>F3</sup>Primary Care Trust or] Health Authority to which an application for inclusion in a services list is to be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the [<sup>F3</sup>Primary Care Trust or] Health Authority (whether by the applicant or by arrangement with him),
  - (c) grounds on which the [<sup>F3</sup>Primary Care Trust or] Health Authority may, or must, refuse a person’s application for inclusion in a services list

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- (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
- (d) requirements with which a person included in a services list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a [<sup>F3</sup>Primary Care Trust or] Health Authority may, or must, suspend or remove a person from a services list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a services list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the [<sup>F3</sup>Primary Care Trust or] Health Authority by an applicant for inclusion in a services list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
  - (h) circumstances in which a person included in a services list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions of [<sup>F4</sup>Primary Care Trusts and] Health Authorities under the regulations,
  - (k) the disclosure by a [<sup>F3</sup>Primary Care Trust or] Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a services list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person's inclusion in a services list to be subject to conditions determined by the [<sup>F5</sup>Primary Care Trust or] Health Authority,
  - (b) the [<sup>F5</sup>Primary Care Trust or] Health Authority to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and
  - (d) the review by the [<sup>F5</sup>Primary Care Trust or] Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the services list relates; or
  - (b) preventing any acts or omissions of the type described in section 49F(3)(a) below.
- (6) Regulations may provide—
- (a) that no person may perform personal medical services in accordance with section 28C arrangements unless he is included in a medical list, a supplementary list under section 43D or a services list,

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- (b) that no person may perform personal dental services in accordance with section 28C arrangements unless he is included in a list referred to in section 36(1)(a), a supplementary list under section 43D or a services list.
- (7) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N below.
- (8) If the regulations provide under subsection (3)(e) or (4) that a [<sup>F6</sup>Primary Care Trust or] Health Authority may suspend or remove a person from a services list, they must include provision—
  - (a) requiring him to be given notice of any allegation against him;
  - (b) giving him the opportunity of putting his case at a hearing before the [<sup>F6</sup>Primary Care Trust or] Health Authority make any decision as to his suspension or removal; and
  - (c) requiring him to be given notice of the [<sup>F7</sup>decision of the Primary Care Trust or of the Health Authority] and the reasons for it and of any right of appeal under subsection (9) or (10).
- (9) If the regulations provide under subsection (3)(c) or (e) that a [<sup>F8</sup>Primary Care Trust or] Health Authority may refuse a person’s application for inclusion in a services list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the FHSAA against the [<sup>F9</sup>decision of the Primary Care Trust or of the Health Authority] .
- (10) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the [<sup>F10</sup>decision of the Primary Care Trust or of the Health Authority]—
  - (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove him from the services list for breach of condition,
  - (d) on any review of an earlier such decision of theirs.”
- (2) After section 8 of the National Health Service (Primary Care) Act 1997 (c. 46) there shall be inserted—

*“ Services Lists*

**Lists of persons who may perform personal medical services or personal dental services**

- (1) The Secretary of State may make regulations providing for the preparation and publication by each Health Authority of one or more lists of—
  - (a) medical practitioners who may perform personal medical services in connection with the provision of such services under a pilot scheme,
  - (b) dental practitioners who may perform personal dental services in connection with the provision of such services under a pilot scheme.
- (2) Such a list is referred to in this section as a “services list”.
- (3) The regulations may, in particular, include provision as to—

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- (a) the Health Authority to which an application for inclusion in a services list is to be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the Health Authority (whether by the applicant or by arrangement with him),
  - (c) grounds on which the Health Authority may, or must, refuse a person's application for inclusion in a services list (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
  - (d) requirements with which a person included in a services list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a Health Authority may, or must, suspend or remove a person from a services list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a services list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the Health Authority by an applicant for inclusion in a services list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
  - (h) circumstances in which a person included in a services list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions of Health Authorities under the regulations,
  - (k) the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a services list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person's inclusion in a services list to be subject to conditions determined by the Health Authority,
  - (b) the Health Authority to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and
  - (d) the review by the Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the services list relates; or
  - (b) preventing any acts or omissions of the type described in section 49F(3)(a) of the 1977 Act.
- (6) Regulations may provide—

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- (a) that no person may perform personal medical services unless he is included in a medical list, a supplementary list under section 43D of the 1977 Act or a services list,
  - (b) that no person may perform personal dental services unless he is included in a list referred to in section 36(1)(a) of the 1977 Act, a supplementary list under section 43D of that Act or a services list.
- (7) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N of the 1977 Act.
- (8) If the regulations provide under subsection (3)(e) or (4) that a Health Authority may suspend or remove a person from a services list, they must include provision—
- (a) requiring him to be given notice of any allegation against him;
  - (b) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his suspension or removal; and
  - (c) requiring him to be given notice of the Health Authority’s decision and the reasons for it and of any right of appeal under subsection (9) or (10).
- (9) If the regulations provide under subsection (3)(c) or (e) that a Health Authority may refuse a person’s application for inclusion in a services list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the Family Health Services Appeal Authority (“FHSAA”) against the Health Authority’s decision.
- (10) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the Health Authority’s decision—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove him from the services list for breach of condition,
  - (d) on any review of an earlier such decision of theirs.”
- (3) In section 40(3) of the National Health Service (Primary Care) Act 1997 (c. 46) (interpretation) after “sections 28C” there shall be inserted “, 28DA ”.]

#### Textual Amendments

- F1** S. 26 repealed (1.4.2006 for E., 1.4.2006 for W. for specified purposes) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), **Sch. 14 Pt. 4**; S.I. 2005/2925, art. 11; S.I. 2006/345, art. 7(2)(1)
- F2** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(a)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F3** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(b)(i)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F4** Words in s. 26(1) inserted (1.10.2002) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(b)(ii)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))

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- F5** Words in s. 26(1) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(c)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F6** Words in s. 26(1) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(d)(i)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F7** Words in s. 26(1) substituted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(d)(ii)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F8** Words in s. 26(1) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(e)(i)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F9** Words in s. 26(1) substituted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(e)(ii)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))
- F10** Words in s. 26(1) substituted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 4(3), 42(3), **Sch. 3 Pt. 2 para. 16(2)(f)**; S.I. 2002/2478, **art. 3(1)** (subject to art. 3(3))

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#### **Commencement Information**

- I1** S. 26 partly in force; s. 26 not in force at Royal Assent, see s. 70(2); s. 26(2) in force for E. at 31.5.2002 by S.I. 2002/1095, **art. 2(7)** (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 26 in force for W. at 1.7.2002 by S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1

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