
STATUTORY INSTRUMENTS

2013 No. 363

The National Health Service (Primary Medical Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

2. The GMS Contracts Regulations are amended in accordance with this Part.

Amendment of regulation 2

3. In regulation 2 (interpretation)—

(a) for the definition of “assessment panel”, substitute—

““assessment panel” means the panel appointed by the Board under paragraph 35(3) of Schedule 6;”;

(b) for the definition of “batch issue” substitute—

““batch issue” means a form, in the format required by the Board and approved by the Secretary of State which—

- (a) is issued by a repeatable prescriber at the same time as a non-electronic repeatable prescription to enable a chemist or person who provides dispensing services to receive payment for the provision of repeat dispensing services;
- (b) relates to a particular non-electronic repeatable prescription and contains the same date as that prescription;
- (c) is generated by a computer and not signed by a repeatable prescriber;
- (d) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs, medicines or appliances ordered on the non-electronic repeatable prescription may be provided; and
- (e) has included on it a number denoting its place in the sequence referred to in sub-paragraph (d);”;

(c) immediately after the definition of “batch issue”, insert—

““the Board” means the National Health Service Commissioning Board;

“Care Quality Commission” means the body established by section 1 of the Health and Social Care Act 2008;

“CCG” means a clinical commissioning group;”(1);

(1) 2008 c.14. The National Health Service Commissioning Board is established by section 1H of the 2006 Act. Section 1H is inserted by section 9 of the 2012 Act. A clinical commissioning group is a body established under section 14D of the 2006 Act. Section 14D is inserted by section 25(1) of the 2012 Act. *See also* section 11 of the 2006 Act. Section 11 is inserted by section 10 of the 2012 Act.

- (d) in the definition of “chemist”, for “a Primary Care Trust”, substitute “the Board”;
- (e) immediately after the definition of “childhood vaccines and immunisations”, insert—
- ““chiropractist or podiatrist independent prescriber” means a person—
- (a) who is engaged or employed by the contractor or is a party to the contract; and
- (b) who is registered in Part 2 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that the chiropractist or podiatrist is qualified to order drugs, medicines and appliances as a chiropractist or podiatrist independent prescriber;”(2);
- (f) in the definition of “contractor’s list of patients”, for “the Primary Care Trust”, substitute “the Board”;
- (g) in the definition of “dispensing services” for “regulation 48 of the Pharmaceutical Regulations”, substitute “section 126 (arrangements for pharmaceutical services) and section 129 (regulations as to pharmaceutical services) of the 2006 Act”;
- (h) for the definition of “Drug Tariff”, substitute—
- ““Drug Tariff” means the publication known as the Drug Tariff which is published by the Secretary of State and which is referred to in section 127(4) (arrangements for additional pharmaceutical services) of the 2006 Act;”;
- (i) immediately after the definition of “electronic prescription form”, insert—
- ““Electronic Prescription Service” means the service of that name which is operated by the Health and Social Care Information Centre;”(3);
- (j) for the definition of “electronic repeatable prescription”, substitute—
- ““electronic repeatable prescription” means a prescription which falls within paragraph (b) of the definition of “repeatable prescription”;”;
- (k) omit the definition of “ETP service”;
- (l) in the definition of “home oxygen order form”, for “the Primary Care Trust”, substitute “the Board”;
- (m) in the definition of “listed medicines voucher”, for “a Primary Care Trust”, substitute “the Board”;
- (n) for the definition of “Local Medical Committee”, substitute—
- ““Local Medical Committee” means a committee recognised by the Board under section 97 of the 2006 Act;”(4);
- (o) omit the definition of “local pharmaceutical services”;
- (p) in the definition of “medical card” for “a Primary Care Trust”, substitute “the Board”;
- (q) for the definition of “medical performers list”, substitute—
- ““medical performers list” means the list of medical practitioners maintained and published by the Board in accordance with section 91 (persons performing primary medical services) of the 2006 Act;”(5);
- (r) omit the definitions of “NHS Care Record” and “NHS Care Record Service”;
- (s) for the definition of “nominated dispenser”, substitute—

(2) S.I. 2002/254; article 5 is amended by S.I. 2009/1182. This Order is renamed by section 213(4) and (6) of the 2012 Act.

(3) The Health and Social Care Information Centre is established under section 252 of the 2012 Act.

(4) Section 97 is amended by section 55(1) of, and paragraph 41(1) and (2) of Schedule 4 to, the 2012 Act.

(5) Section 91 is amended by section 55(1) of, and paragraph 35(1) and (2) of Schedule 4 to, the 2012 Act.

““nominated dispenser” means a chemist, medical practitioner or contractor who has been nominated in respect of a patient and the details of that nomination are held in respect of that patient in the Patient Demographics Service which is operated by the Information Centre for Health and Social Care;”;

- (t) for the definition of “non-electronic repeatable prescription”, substitute—

““non-electronic repeatable prescription” means a form for the purpose of ordering a drug, medicine or appliance which—

- (a) is provided by the Board, a local authority or the Secretary of State;
- (b) is issued by the prescriber;
- (c) indicates that the drug, medicine or appliance ordered may be provided more than once; and
- (d) specifies the number of occasions on which they may be provided;”;

- (u) omit the definition of “NPSA”;

- (v) immediately after the definition of “patient”, insert—

““Patient Choice Extension Scheme” means the scheme of that name established by the Secretary of State under which primary medical services may be provided under arrangements made in accordance with directions given to the Board by the Secretary of State under section 98A (exercise of functions) of the 2006 Act;”(6);

- (w) omit the definition of “Pharmaceutical Regulations”;

- (x) immediately after the definition of “pharmacist independent prescriber”, insert—

““physiotherapist independent prescriber” means a person—

- (a) who is engaged or employed by the contractor or is a party to the contract; and
- (b) who is registered in Part 9 of the register maintained under article 5 of the Health and Social Work Professions Order 2001 (establishment and maintenance of register), and against whose name in that register is recorded an annotation signifying that the physiotherapist is qualified to order drugs, medicines and appliances as a physiotherapist independent prescriber;”;

- (y) for the definition of “prescriber”, substitute—

““prescriber” means—

- (a) a chiropodist or podiatrist independent prescriber;
- (b) an independent nurse prescriber;
- (c) a medical practitioner;
- (d) an optometrist independent prescriber;
- (e) a pharmacist independent prescriber;
- (f) a physiotherapist independent prescriber; and
- (g) a supplementary prescriber,

who is either engaged or employed by the contractor or is a party to the contract;”;

- (z) for the definition of “prescription form”, substitute—

““prescription form” means, except in the context of the expression “electronic prescription form” or “non-electronic prescription form”—

(6) Section 98A is inserted by section 49(1) of the 2012 Act. The Patient Choice Extension Scheme Directions signed on 11th February 2013 and published on the Department of Health website www.dh.gov.uk.

- (a) a form for the purpose of ordering a drug, medicine or appliance which is—
 - (i) provided by the Board, a local authority or the Secretary of State;
 - (ii) issued by the prescriber; and
 - (iii) does not indicate that the drug, medicine or appliance ordered may be provided more than once; or
- (b) where paragraph 39A(1) (electronic prescriptions) of Schedule 6 applies, data created in an electronic form for the purpose of ordering a drug, medicine or appliance, which—
 - (i) is signed with a prescriber’s advanced electronic signature;
 - (ii) is transmitted as an electronic communication to a nominated dispensing contractor by the Electronic Prescription Service; and
 - (iii) does not indicate that the drug, medicine or appliance ordered may be provided more than once;”;
- (aa) for the definition of “Primary Care Trust”, substitute—

““Primary Care Trust” means, unless the context otherwise requires, the Primary Care Trust which was a party to the contract immediately before the coming into force of section 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012;”;
- (bb) in the definition of “registered patient”, in each place, for “the Primary Care Trust”, substitute “the Board”;
- (cc) in the definition of “relevant register”—
 - (i) in paragraph (a), omit “and”; and
 - (ii) at the end of paragraph (b), add—
 - “(c) in relation to an optometrist, the register maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989; and
 - (d) the part of the register maintained by the Health and Care Professions Council in pursuance of article 5 of the Health and Social Work Professions Order 2001 relating to—
 - (i) chiropodists and podiatrists;
 - (ii) physiotherapists; or
 - (iii) radiographers;”(7);
- (dd) omit the definition of “relevant Strategic Health Authority”;
- (ee) for the definition of “repeatable prescription”, substitute—

““repeatable prescription” means, except in the context of the expression “electronic repeatable prescription” or “non-electronic repeatable prescription”, a prescription which—

 - (a) is a form provided by the Board, a local authority or the Secretary of State for the purpose of ordering a drug, medicine or appliance which is in the format required by the NHS Business Services Authority and which—
 - (i) is issued by a repeatable prescriber to enable a chemist or person providing dispensing services to receive payment for the provision of repeat dispensing services;

(7) Section 7 of the Opticians Act 1989 (c.44) is amended by articles 2 and 7 of S.I. 2005/848. Section 214 of the 2012 Act provides for the Health Professions Council to continue to exist and to change its name to the Health and Care Professions Council.

- (ii) indicates that the drug, medicine or appliance ordered may be provided more than once; and
 - (iii) specifies the number of occasions on which they may be provided; or
 - (b) where paragraph 39A(1) of Schedule 6 applies, is data created in an electronic form for the purposes of ordering a drug, medicine or appliance, which—
 - (i) is signed with a prescriber’s advanced electronic signature;
 - (ii) is transmitted as an electronic communication to a nominated dispensing contractor by the Electronic Prescription Service; and
 - (iii) indicates that the drug, medicine or appliance ordered may be provided more than once and specifies the number of occasions on which they may be provided;”(8);
- (ff) immediately after the definition of “section 28C provider”, insert—
 - ““service provider” has the same meaning as in regulation 2 of the Care Quality Commission (Registration) Regulations 2009 (interpretation);”(9); and
- (gg) omit the definition of “walk-in centre”.

Substitution of regulation 3

4. For regulation 3 (conditions: general), substitute—

“3. Subject to the provisions of any scheme made by the Secretary of State under section 300 (transfer schemes) and any order made under section 303 (power to make consequential provision) of the Health and Social Care Act 2012, the Board may only enter into a contract if the conditions set out in regulations 4 and 5 are met.”.

Amendment of regulation 4

5. In regulation 4 (conditions relating solely to medical practitioners)—

- (a) in paragraph (2)(b)(ii), omit “a Primary Care Trust,”; and
- (b) in paragraph (3)—
 - (i) in sub-paragraphs (a) and (b), immediately before “legally and beneficially”, in each place, insert “both”; and
 - (ii) in sub-paragraph (b)(ii), omit “a Primary Care Trust,”.

Amendment of regulation 5

6. In regulation 5 (general condition relating to all contracts)—

- (a) in paragraph (1)(c)(ii) immediately before “legally and beneficially” insert “both”;
- (b) in paragraph (3)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) in sub-paragraph (c)(i), immediately before “legally and beneficially” insert “both”;
- (c) in paragraph (5)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and

(8) The NHS Business Services Authority is established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG (Establishment and Constitution) Order 2005 [S.I. 2005/2414](#).
(9) [S.I. 2009/3112](#).

- (ii) in sub-paragraph (c)(i), immediately before “legally and beneficially” insert “both”;
and
- (d) add after paragraph (5)—
 - “(6) For the purposes of paragraph (2)(c), a health service body respectively includes a Strategic Health Authority or a Primary Care Trust which was established before the coming into force of section 33 or 34 of the Health and Social Care Act 2012.”.

Amendment of regulation 6

- 7. In regulation 6 (reasons)—
 - (a) in paragraph (1), for “a Primary Care Trust”, substitute “the Board”; and
 - (b) in paragraph (2)—
 - (i) for “The Primary Care Trust”, substitute “The Board”; and
 - (ii) immediately before “legally and beneficially”, insert “both”.

Amendment of regulation 7

- 8. In regulation 7 (appeal), for “the Primary Care Trust”, substitute “the Board”.

Amendment of regulation 9

- 9. In regulation 9 (pre-contract disputes), in paragraph (3)(b), for “the Primary Care Trust”, substitute “the Board”.

Amendment of regulation 10

- 10. In regulation 10 (health service body status), in paragraphs (1), (4)(a), (5) and (7)(b), for “the Primary Care Trust”, substitute “the Board”.

Amendment of regulation 14

- 11. In regulation 14 (duration)—
 - (a) in paragraph (2), for “the Primary Care Trust”, substitute “the Board”; and
 - (b) for paragraph (3), substitute—
 - “(3) Either party to a prospective contract to which paragraph (2) applies may, if it wishes to do so, invite the Local Medical Committee for the area in which it is intended that primary medical services are to be provided by the prospective contractor to participate in the negotiations intending to lead to such a contract.”.

Amendment of regulation 15

- 12. In regulation 15 (essential services)—
 - (a) at the beginning of paragraph (1), insert “Subject to paragraph (1A),”; and
 - (b) after paragraph (1), insert—
 - “(1A) The services described in paragraphs (3), (5), (6) and (8) are not required to be provided by the contractor during any period in respect of which the Care Quality Commission has suspended the contractor as a service provider under section 18 of the Health and Social Care Act 2008 (suspension of registration).”; and
 - (c) in paragraph (9), omit “in the area of the Primary Care Trust”.

Amendment of regulation 17

13. In regulation 17 (opt outs of additional and out of hours services)—
- (a) in paragraph (1), omit “except paragraphs 3(12) to (14)”;
 - (b) in paragraph (2), omit “,except paragraphs 4(9)” to the end of that paragraph;
 - (c) in paragraph (3), omit “,except paragraph 4(8)” to the end of that paragraph; and
 - (d) omit paragraph (4).

Amendment of regulation 18

14. In regulation 18 (services generally), in paragraph (3), for “the Primary Care Trust”, in each place, substitute “the Board”.

Insertion of new regulation 20A

15. After regulation 20 (services generally), insert—

“Membership of a CCG

- 20A. A contract must contain a term which has the effect of requiring—
- (a) the contractor to be a member of a CCG; and
 - (b) that contractor to appoint one individual who is a health care professional to act on its behalf in the dealings between it and the CCG to which it belongs.”.

Amendment of regulation 22

16. In regulation 22 (finance), in paragraph (2), for “the Primary Care Trust”, in each place, substitute “the Board”.

Substitution of regulation 23

17. For regulation 23, substitute—

“23. The contract must contain a term to the effect that where, pursuant to directions under section 87 (GMS contracts: payments) or section 98A (exercise of functions) of the 2006 Act, the Board is required to make a payment to a contractor under a contract but subject to conditions, those conditions are to be a term of the contract.”.

Amendment of regulation 24

18. In regulation 24 (fees and charges), in paragraph (4), for “the Primary Care Trust”, in each place, substitute “the Board”.

Amendment of regulation 26

19. In regulation 26 (other contractual terms), in paragraph (1) for “except paragraphs” to the end of that paragraph, substitute “except paragraphs 35(5) to (9), 36(5) to (17), 101(5) to (14) and 102.”.

Omission of regulation 26A and insertion of new regulation 26B

20. Omit regulation 26A (variation of contractual terms in respect of entering into arrangements under the Patient Choice Scheme) and insert after regulation 26 (other contractual terms)—

“Variation of contractual terms in respect of entering into arrangements under the Patient Choice Extension Scheme

26B.—(1) This regulation applies where the contractor and the Board enter into arrangements under the Patient Choice Extension Scheme.

(2) The terms of the contract—

- (a) which have the same effect as the provisions specified in paragraph (3) must be varied in accordance with paragraph (4); and
- (b) must be varied to include terms which have the same effect as the provisions specified in paragraphs (5) to (6),

but only to the extent that such variations relate to the provision of primary medical services to patients who received such services under arrangements made in accordance with the Patient Choice Scheme and wish to continue to do so under the Patient Choice Extension Scheme with effect from the start of the day on which such arrangements commence and for the period ending at the end of the day which is the date of the termination of those arrangements, which must be no later than 31st March 2014.

(3) The terms of the contract specified in this paragraph are—

- (a) regulation 15 (essential services);
- (b) regulation 20 (which provides for arrangements to access services throughout core hours);
- (c) the provisions which provide for the contractor to provide out of hours services; and
- (d) in Schedule 6 (other contractual terms)—
 - (i) paragraph 2(1) (attendance at practice premises);
 - (ii) paragraph 3(2)(a) (attendance outside practice premises); and
 - (iii) paragraph 17(2) (refusal of applications for inclusion in the list of patients).

(4) The contract must include terms which have the effect of temporarily releasing the contractor and the Board from all obligations, payments, rights and liabilities relating to those terms (and only those terms) which have the same effect as the provisions specified in paragraph (3)—

- (a) including any right to enforce those terms only in respect of the provision of primary medical services to patients who wish to receive such services under arrangements made in accordance with the Patient Choice Extension Scheme; and
- (b) only where, in the opinion of the contractor, it is not clinically appropriate or practical to provide the services or access to such services in accordance with those terms or to comply with those terms, under arrangements made under the Patient Choice Extension Scheme.

(5) The contract must also include a term which has the effect of requiring the contractor to notify a person in writing that where the contractor is minded to continue to accept that person on its list of patients in accordance with the Patient Choice Extension Scheme the contractor is under no obligation to provide—

- (a) essential services, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide primary medical services given the particular circumstances of the patient;
- (b) out of hours services, in a case where at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; or

- (c) additional services (within the meaning of regulation 2) to the patient if it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.

(6) The contract must also include terms to have the effect of providing that immediately after the date of the termination of the arrangements under the Patient Choice Extension Scheme, the variations made as a consequence of paragraph (2) must terminate save to the extent necessary in respect of enforcing any obligation, condition, payment, right and liability arising from those terms prior to the date of termination.”.

Amendment of regulation 27

21. In regulation 27 (functions of Local Medical Committees)—

- (a) in paragraph (1)(b), for “the Primary Care Trust with whom the contract is held”, substitute “the Board”;
- (b) in paragraph (1)(c), for “the Primary Care Trust”, substitute “the Board”;
- (c) in paragraph (1)(d), for “the Primary Care Trust with whom the contractor holds a contract”, substitute “the Board”; and
- (d) in paragraph (2)(c), immediately before “a legal and beneficial” insert “both”.

Amendment of regulation 31

22. In regulation 31 (out of hours services) for paragraph (3)(b), substitute—

- “(b) the Board has agreed in writing that the contractor need no longer provide some or all of those services to some or all of those patients.”.

Omission of regulation 32 and Schedule 7

23. Omit regulation 32 and Schedule 7 (out of hours services).

Amendment of Schedule 2

24. In Schedule 2 (additional services), in paragraph 2(2)(a) (cervical screening) and 6(2)(b) (child health surveillance), for “the Primary Care Trust”, substitute “the Board”.

Amendment of Schedule 3

25.—(1) Schedule 3 (opt outs of additional and out of hours services) is amended as follows.

(2) In paragraph 1 (opt outs of additional services: general)—

- (a) in sub-paragraph (2), for “the relevant Primary Care Trust”, substitute “the Board”;
 - (b) in sub-paragraphs (3), (4) and (5), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (c) omit sub-paragraph (9).
- (3) In paragraph 2 (temporary opt outs and permanent opt outs following temporary opt outs)—
- (a) in sub-paragraphs (1), (3), (4), (7), (10) and (15)(b), for “the Primary Care Trust”, in each place, substitute “the Board”;
 - (b) in sub-paragraphs (2), (6) and (8), for “a Primary Care Trust”, substitute “the Board”;
 - (c) in sub-paragraph (5)—
 - (i) for “the Primary Care Trust”, in each place, substitute “the Board”;

- (ii) in paragraph (d)(i), after “28 days after the end date,” insert “or”; and
- (iii) omit at the end of paragraph (d)(ii) “or” and omit paragraph (d)(iii);
- (d) in sub-paragraph (9), for “the relevant Primary Care Trust”, substitute “the Board”; and
- (e) omit sub-paragraphs (11), (12), (13) and (14);
- (4) In paragraph 3 (permanent opt outs)—
 - (a) in sub-paragraphs (1) and (3), for “a Primary Care Trust”, substitute “the Board”;
 - (b) in sub-paragraphs (2), (5), (6), (9) and (21)(b), for “the Primary Care Trust”, in each place substitute “the Board”;
 - (c) in sub-paragraph (4)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) for “the Primary Care Trust’s”, substitute “the Board’s”;
 - (d) in sub-paragraph (7)—
 - (i) except in paragraph (b), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (ii) in paragraph (b), omit “unless at least one month” to the end of that paragraph (b);
 - (e) in sub-paragraph (8)—
 - (i) omit “unless at least one month” to the end of that sub-paragraph; and
 - (ii) for the remaining references to “the Primary Care Trust”, substitute “the Board”;
 - (f) omit sub-paragraphs (10) to (19); and
 - (g) in sub-paragraph (20)—
 - (i) for “sub-paragraphs (1) to (19)”, substitute “sub-paragraphs (1) to (9)”; and
 - (ii) for “the Primary Care Trust”, substitute “the Board”.
- (5) In paragraph 4 (out of hours opt outs where the opt out notice is served after 30th September 2004)—
 - (a) in sub-paragraph (2), for “the relevant Primary Care Trust”, substitute “the Board”;
 - (b) in sub-paragraphs (4), (5) and (8), for “the Primary Care Trust”, substitute “the Board”; and
 - (c) in sub-paragraph (7)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) for “the Primary Care Trust’s”, substitute “the Board’s”; and
 - (d) in sub-paragraph (9)—
 - (i) for “Sub-paragraphs (6) to (21)”, substitute “Sub-paragraphs (6) to (9)”; and
 - (ii) omit “and the reference in paragraph 3(16)” to the end of that sub-paragraph.
- (6) Omit paragraph 5 (out of hours opt outs where the opt out notice is served before 1st October 2004).
- (7) In paragraph 6 (informing patients of opt outs), for “the Primary Care Trust”, in each place substitute “the Board”.

Amendment of Schedule 5

- 26.** In Schedule 5 (fees and charges)—
 - (a) in paragraph 1(c) and (g) for “the Primary Care Trust”, substitute “the Board”; and

- (b) in paragraph (1)(k), for “by a Primary Care Trust” to the end of that sub-paragraph substitute—

“in accordance with arrangements made with the Board under section 126 (arrangements for pharmaceutical services) and in accordance with regulations made under section 129 (regulations as to pharmaceutical services) of the 2006 Act to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than by way of dispensing services, any Scheduled drug;”.

Amendment of Schedule 6

27.—(1) Schedule 6 (other contractual terms) is amended as follows.

(2) In paragraph 3 (attendance outside practice premises), in sub-paragraph (2)(b), for “the Primary Care Trust”, substitute “the Board”.

(3) In paragraph 4 (newly registered patients), in sub-paragraph (1)(b), for “the Primary Care Trust”, substitute “the Board”.

(4) In paragraph 7 (clinical reports)—

(a) in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”; and

(b) for sub-paragraph (2), substitute—

“(2) The Board must send any report received under sub-paragraph (1) to the person with whom the patient is registered for the provision of essential services or their equivalent.”.

(5) In paragraph 11A (supply of medicines etc. by contractors providing out of hours services)—

(a) in sub-paragraph (1)—

(i) omit the definition of “the Charges Regulations”; and

(ii) in the definition of “supply form” for “a Primary Care Trust”, substitute “the Board”;

(b) in sub-paragraph (2), for “the Primary Care Trust”, substitute “the Board”; and

(c) for sub-paragraph (5)(a), substitute—

“(a) ask any person who makes a declaration that the patient does not have to pay any of the charges specified in regulations made under sections 172 (charges for drugs, medicines or appliances, or pharmaceutical services) and 174 (pre-payment certificates) of the 2006 Act in respect of dispensing services to a patient by virtue of either—

(i) entitlement to exemption under regulations made under those sections; or

(ii) entitlement to full remission of charges under regulations made under sections 182 (remission and repayment of charges) or 183 (payment of travelling expenses) of that Act,

to produce satisfactory evidence of such entitlement, unless at the time of the declaration such evidence is available to the out of hours performer; and”.

(6) In paragraph 12 (duty of co-operation in relation to additional, enhanced and out of hours services), in sub-paragraph (2)(b), for “the Primary Care Trust”, substitute “the Board”.

(7) In paragraph 13, for “the Primary Care Trust” to the end of that paragraph substitute “the Board or by any person with whom the Board intends to enter into a contract for the provision of such services.”.

(8) In paragraph 14 (list of patients), for “The Primary Care Trust”, substitute “The Board”.

(9) In paragraph 15 (application for inclusion in a list of patients), in sub-paragraphs (5) and (6) for “the Primary Care Trust”, substitute “the Board”.

- (10) In paragraph 16 (temporary residents), in sub-paragraph (4), for “the Primary Care Trust”, substitute “the Board”.
- (11) In paragraph 17 (refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident), in sub-paragraph (4), for “the Primary Care Trust”, substitute “the Board”.
- (12) In paragraph 19 (removal from the list at the request of the patient), in sub-paragraphs (1) to (4), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (13) In paragraph 20 (removal from the list at the request of the contractor)—
- (a) in sub-paragraphs (1)(a), (3), (7), (8) and (10), for “the Primary Care Trust”, in each place, substitute “the Board”;
 - (b) in sub-paragraph (5)(c), immediately before “a legal and beneficial” insert “both”; and
 - (c) in sub-paragraph (9)—
 - (i) for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (ii) in paragraph (a), for “the Trust”, substitute “the Board”.
- (14) In paragraph 21 (removals from the list of patients who are violent)—
- (a) in sub-paragraphs (1), (4), (5), (6) and (7), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (b) in sub-paragraph (2)(c), immediately before “a legal and beneficial” insert “both”.
- (15) In paragraph 22 (removals from the list of patients registered elsewhere)—
- (a) for sub-paragraph (1), substitute—
 - “(1) The Board must remove a patient from the contractor’s list of patients if—
 - (a) that patient has subsequently been registered with another provider of essential services (or their equivalent) within England; or
 - (b) it has received notice from a Local Health Board, a Health Board or a Health and Social Services Board that the patient has subsequently been registered with a provider of essential services (or their equivalent) outside England.”; and
 - (b) in sub-paragraphs (2) and (3), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (16) In paragraph 23 and 24 (removals from the list of patients who have moved), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (17) In paragraph 25 (removals from the list of patients absent from the United Kingdom etc.), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (18) In paragraph 26 (removals from the list of patients accepted elsewhere as temporary residents)—
- (a) in sub-paragraphs (1) and (2), for “the Primary Care Trust”, substitute “the Board”; and
 - (b) in sub-paragraph (3), for paragraph (b) substitute “the name, postal and email address of the Board.”.
- (19) In paragraph 27 (removals from the list of pupils etc. of a school), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (20) In paragraph 28 (termination of responsibility for patients not registered with the contractor), in sub-paragraph (4), for “the Primary Care Trust”, substitute “the Board”.
- (21) In paragraph 29A (application for closure of list of patients)—
- (a) in sub-paragraphs (1) to (5) and (7) to (12), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (b) in sub-paragraph (6)—

- (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) for “its area” substitute “the area in which the contractor provides services under the contract”.
- (22) In paragraph 29B (approval of an application to close a list of patients)—
 - (a) in sub-paragraph (1)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) for “its area” substitute “the area in which the contractor provides services under the contract”; and
 - (b) in sub-paragraph (2)(a)(ii), for “the Primary Care Trust”, substitute “the Board”.
- (23) In paragraph 29C (rejection of an application to close a list of patients)—
 - (a) in sub-paragraph (1)—
 - (i) for “a Primary Care Trust”, substitute “the Board”; and
 - (ii) in paragraph (b), for “its area” substitute “the area in which the contractor provides services under the contract”; and
 - (b) in sub-paragraph (2), for “a Primary Care Trust” and “the Primary Care Trust” substitute “the Board”.
- (24) In paragraph 29D (application for an extension of a closure period)—
 - (a) in sub-paragraphs (2) to (7), (9) and (11) for “the Primary Care Trust”, in each place, substitute “the Board”;
 - (b) in sub-paragraph (8)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) in paragraph (b), for “its area” substitute “the area in which the contractor provides services under the contract”; and
 - (c) in sub-paragraph (10)—
 - (i) for “a Primary Care Trust”, substitute “the Board”; and
 - (ii) in paragraph (b) for “its area” substitute “the area in which the contractor provides services under the contract”.
- (25) In paragraph 29E (re-opening of list of patients), for “the Primary Care Trust”, substitute “the Board”.
- (26) In paragraph 32 (assignment of patients to lists: open lists)—
 - (a) in sub-paragraph (1), for “A Primary Care Trust”, substitute “The Board”;
 - (b) for sub-paragraph (2), substitute—
 - “(2) In this paragraph and in paragraphs 33 and 35 to 37, a “new patient” means a person who—
 - (a) has been refused inclusion in a list of patients or has not been accepted as a temporary resident by a contractor; and
 - (b) wishes to be included in the list of patients of a contractor in whose area (as specified in accordance with regulation 18(1)(d)) that person resides.”.
- (27) In paragraph 33 (assignment of patients to lists: closed lists)—
 - (a) in sub-paragraph (1), for “A Primary Care Trust”, substitute “The Board”; and
 - (b) for sub-paragraph (2), substitute—

“(2) The Board may, subject to paragraph 34, assign a new patient to a contractor which has closed its list of patients, if—

- (a) the assessment panel has determined under paragraph 35(7) that patients may be assigned to the contractor in question, and that determination has not been overturned either by a determination of the Secretary of State under paragraph 36(13) or (where applicable) by a court; and
- (b) the Board has entered into discussions with the contractor in question regarding the assignment of a patient if such discussions are required under paragraph 37.”.

(28) For paragraph 34 (factors relevant to assignments), substitute—

“**34.** In making an assignment to a contractor under paragraph 32 or 33, the Board must have regard to—

- (a) the wishes and circumstances of the patient to be assigned;
- (b) the distance between the patient’s place of residence and the contractor’s practice premises;
- (c) any request made by any contractor to remove the patient from its list of patients within the preceding period of 6 months starting on the date on which the application for assignment is received by the Board;
- (d) whether, during the preceding period of 6 months starting on the date on which the application for assignment is received by the Board, the patient has been removed from a list of patients on the grounds referred to in—
 - (i) paragraph 20 (removal from the list at the request of the contractor);
 - (ii) paragraph 21 (removal from the list of patients who are violent); or
 - (iii) the equivalent provisions to those paragraphs in relation to arrangements made under section 83(2) of the 2006 Act or under section 92 arrangements;
- (e) in a case to which sub-paragraph (d)(ii) applies (or the equivalent provisions as mentioned in sub-paragraph (d)(iii) apply), whether the contractor has appropriate facilities to deal with such patients; and
- (f) such other matters as the Board considers relevant.”.

(29) For paragraph 35 (assignments to closed lists: determinations of the assessment panel), substitute—

“**35.**—(1) If the Board wishes to assign new patients to contractors which have closed their lists of patients, it must prepare a proposal to be considered by the assessment panel.

(2) The Board must notify in writing—

- (a) contractors, including those contractors who provide primary medical services under arrangements made under section 83(2) of the 2006 Act or under section 92 arrangements, which—
 - (i) have closed their lists of patients; and
 - (ii) may, in the opinion of the Board, be affected by the determination of the assessment panel; and
- (b) the Local Medical Committee (if any) for the area in which the contractors referred to in paragraph (a) provide essential services (or their equivalent),

that it has referred the matter to the assessment panel.

(3) The Board must ensure the assessment panel is appointed to consider and determine the proposal made under sub-paragraph (1), and the composition of the assessment panel must be as described in sub-paragraph (4).

(4) The members of the assessment panel must be—

- (a) a member of the Board who is a director;
- (b) a patient representative who is a member of the Local Health and Wellbeing Board or Local Healthwatch organisation; and
- (c) a member of a Local Medical Committee but not a member of the Local Medical Committee formed for the area in which the contractors who may be assigned patients as a consequence of the panel's determination provide services.

(5) In reaching its determination, the assessment panel must have regard to relevant factors including—

- (a) whether the Board has attempted to secure the provision of essential services (or their equivalent) for new patients other than by means of assignment to a contractor with a closed list; and
- (b) the workload of those contractors likely to be affected by any decision to assign such patients to their list of patients.

(6) The assessment panel must reach a determination within a period of 28 days starting on the date on which the assessment panel was appointed.

(7) The assessment panel—

- (a) must determine whether the Board may assign patients to a contractor which has a closed list of patients; and
- (b) if it so determines that the Board may make such an assignment, must determine, in the case where there is more than one contractor, those contractors to which patients may be assigned.

(8) The assessment panel may determine that the Board may assign new patients to contractors other than any of the contractors specified in its proposals under sub-paragraph (1), as long as the contractors were notified under sub-paragraph (2)(a).

(9) The assessment panel's determination must include its comments on the matters referred to in sub-paragraph (5), and must be notified in writing to those contractors referred to in sub-paragraph (2)(a)."⁽¹⁰⁾

(30) In paragraph 36 (assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel), in sub-paragraphs (1), (13) and (16)(b), for "the Primary Care Trust", in each place, substitute "the Board".

(31) For the heading to paragraph 37 and for sub-paragraph (1) of paragraph 37 (assignments to closed lists: assignments of patients by a Primary Care Trust), substitute—

"Assignment to closed lists: assignments of patients by the Board

37.—(1) Before the Board may assign a new patient to a contractor, it must, subject to sub-paragraph (3), enter into discussions with the contractor regarding additional support that the Board can offer the contractor and the Board must use its best endeavours to provide appropriate support."

(32) In paragraph 39 (prescribing)—

- (a) in sub-paragraph (1B), for paragraph (a), substitute—

⁽¹⁰⁾ See section 222(2A) (arrangements under section 221(1)) of the Local Government and Public Involvement in Health Act 2007 (c.28) for the meaning of a Local Healthwatch organisation.

- “(a) the Secretary of State or the Board has made arrangements for the distribution of a listed medicine free of charge; and”;
 - (b) in sub-paragraph (1C)—
 - (i) for paragraph (a), substitute—
 - “(a) the Secretary of State or the Board has made arrangements for the distribution of a listed medicine free of charge;”;
 - (ii) in paragraph (c), for “the Primary Care Trust”, substitute “the Board”; and
 - (c) in sub-paragraphs (6)(c)(ii) and (7)(c)(ii), for “ETP service”, substitute “Electronic Prescription Service”.
- (33) In paragraph 39A (electronic prescriptions)—
 - (a) in sub-paragraph (1)—
 - (i) for paragraph (a), substitute—
 - “(a) the Board authorises the contractor to use the Electronic Prescription Service;”;
 - (ii) in paragraph (b)(i), omit “in his NHS Care Record”; and
 - (b) in sub-paragraph (3)(a), for “the Primary Care Trust”, substitute “the Board”.
- (34) In paragraph 39B (nomination of dispensers for the purpose of electronic prescriptions)—
 - (a) in sub-paragraph (1), for “operates the ETP service for its patients shall, if requested to do so by a patient, enter in that patient’s NHS Care Record”, substitute—
 - “is authorised to use the Electronic Prescription Service for its patients must enter into the particulars relating to that patient which is held in the Patient Demographic Service operated by the Information Centre for Health and Social Care,”;
 - (b) in sub-paragraph (2), for “ETP service”, substitute “Electronic Prescription Service”;
 - (c) in sub-paragraph (4)(b), for “an ETP service” to the end, substitute “an Electronic Prescription Service as given to that contractor by the Board”.
- (35) In paragraph 40 (repeatable prescribing services)—
 - (a) in sub-paragraphs (1)(b) and (3), for “the Primary Care Trust”, substitute “the Board”;
 - (b) in sub-paragraph (2)(c), for “in an area of the Primary Care Trust”, substitute “in a Local Authority area”; and
 - (c) in sub-paragraph (7)(b), for “the Primary Care Trust under regulation 48 of the Pharmaceutical Regulations”, substitute “the Board in accordance with arrangements made under section 126 (arrangements for pharmaceutical services) and section 129 (regulations as to pharmaceutical services) of the 2006 Act.”.
- (36) In paragraph 41 (repeatable prescriptions)—
 - (a) in sub-paragraph (2)(b)(i)—
 - (i) for “the ETP service”, substitute “the Electronic Prescription Service”; and
 - (ii) omit “in the person’s NHS Care Record”; and
 - (b) in sub-paragraph (3)—
 - (i) for “the ETP service”, substitute “the Electronic Prescription Service”; and
 - (ii) omit “in that person’s NHS Care Record”.
- (37) In paragraph 42 (restrictions on prescribing by medical practitioners), in sub-paragraph (2)(c)(ii), for “the Primary Care Trust”, substitute “the Board”.

(38) In paragraph 43 (restrictions on prescribing by supplementary prescribers), in sub-paragraph (2)(d)(iii), for “the Primary Care Trust”, substitute “the Board”.

(39) In paragraph 46 (excessive prescribing), for sub-paragraph (2) substitute—

“(2) In considering whether a contractor has breached its obligations under sub-paragraph (1) the Board must seek the views of the Local Medical Committee (if any) for the area in which the contractor provides services under the contract.”.

(40) In paragraph 53(qualifications of performers)—

(a) in sub-paragraph (1), for paragraph (a), substitute—

“(a) included in the medical performers list;”;

(b) in sub-paragraph (2)(c)—

(i) for “a Primary Care Trust”, substitute “the Board”;

(ii) in paragraph (i), for “the Primary Care Trust”, substitute “the Board”; and

(iii) for paragraph (ii), substitute—

“(ii) the end of a period of 3 months, starting with the date on which that GP Registrar begins a postgraduate medical education and training scheme necessary for the award of a certificate of completion of training awarded under section 34L(1) (award and withdrawal of a Certificate of Completion of Training) of the Medical Act 1983; or”**(11)**;

(c) in sub-paragraph (2)(d)—

(i) for paragraph (iii), substitute—

“(iii) has notified the Board that he will be undertaking part or all of a postgraduate programme in England at least 24 hours before commencing any part of that programme; and”;

(ii) in paragraph (iv), for “the Primary Care Trust”, substitute “the Board”; and

(d) omit sub-paragraph (3).

(41) In paragraph 57 (conditions for employment and engagement)—

(a) for sub-paragraph (1)(a), substitute—

“(a) that practitioner has provided it with documentary evidence that the practitioner is on the medical performers list; and”;

(b) for sub-paragraph (3)(a), substitute—

“(a) the GP Registrar has provided documentary evidence of the GP Registrar’s application to the Board for inclusion on the medical performers list; and” .

(42) In paragraph 64 (arrangements for GP Registrars), for sub-paragraph (3), substitute—

“(3) A contractor which employs a GP Registrar must offer terms of employment in accordance with the rates and subject to the conditions contained in directions given by the Secretary of State under sections 7 and 8 of the 2006 Act to Health Education England.”**(12)**.

(43) For—

(a) the heading to paragraph 65 and sub-paragraphs (1) and (2) of paragraph 65 (independent nurse prescribers, pharmacist independent prescribers and supplementary prescribers), substitute —

(11) 1983 (c.54). Section 34L is inserted by article 4 of, and paragraph 10 of Schedule 1 to, the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I.2010/234).

(12) Health Education England is established by the Health Education (Establishment and Constitution) Order 2012 (S.I. 2012/1273). Section 7 is amended by section 21 of the 2012 Act. Section 8 is amended by section 55 of, and paragraph 5 of Schedule 4 to, the 2012 Act.

“Notification requirements in respect of specified prescribers

65.—(1) Where—

- (a) a contractor employs or engages a person who is specified in sub-paragraph (2A) whose functions will include prescribing;
- (b) a party to the contract is a person who is specified in sub-paragraph (2A) whose functions will include prescribing; or
- (c) the functions of a person who is a person specified in sub-paragraph (2A) and is a person whom the contractor already employs or has already engaged are extended to include prescribing,

the contractor must notify the Board in writing within a period of 7 days starting on the date on which the contractor employed or engaged the person, the party became a party to the contract (unless immediately before becoming such a party, the person fell under paragraph (a)), or the person’s functions were extended, as the case may be.

(2) Where—

- (a) the contractor ceases to employ or engage a person who is specified in sub-paragraph (2A) whose functions included prescribing in its practice;
- (b) the party to the contract who is a person who is specified in sub-paragraph (2A) ceases to be a party to the contract;
- (c) the functions of a person who is a person specified in sub-paragraph (2A) and whom the contractor employs or engages in its practice are changed so that the functions no longer include prescribing in its practice; or
- (d) the contractor becomes aware that a person who is specified in sub-paragraph (2A) whom it employs or engages has been removed or suspended from the relevant register,

the contractor must notify the Board by the end of the second working day after the day on which the event occurred.

(2A) The specified persons are—

- (a) a chiropodist or podiatrist independent prescriber;
 - (b) an independent nurse prescriber;
 - (c) a pharmacist independent prescriber;
 - (d) a physiotherapist independent prescriber; and
 - (e) a supplementary prescriber.”; and
- (b) For “the Primary Care Trust” in sub-paragraphs (3) and (4) of paragraph 65, substitute “the Board”.

(44) In paragraph 68 (appraisal and assessment)—

- (a) in sub-paragraph (1)—
 - (i) in paragraph (a) for “the Primary Care Trust”, substitute “the Board”; and
 - (ii) for paragraph (b), substitute—
 - “(b) co-operates with the Board in relation to the Board’s patient safety functions.”**(13)**.
- (b) for sub-paragraph (2), substitute—

(13) See section 13R (information on safety of services provided by the health service) of the 2006 Act. Section 13R is inserted section 23(1) of the 2012 Act.

- “(2) The Board must provide an appraisal system for the purposes of sub-paragraph (1) (a) after consultation with the Local Medical Committee (if any) which is formed for the area in which the contractor provides services under the contract and with such other persons as appear to it to be appropriate.”.
- (45) In paragraph 69 (sub-contracting of clinical matters)—
- (a) in sub-paragraphs (1)(b), (4) to (6), for “the Primary Care Trust”, substitute “the Board”; and
 - (b) in sub-paragraph (8), for “a Primary Care Trust”, substitute “the Board”.
- (46) In paragraph 70 (sub-contracting of out of hours services)—
- (a) in sub-paragraphs (1), (3), (5) and (7) for “the Primary Care Trust”, substitute “the Board”;
 - (b) in sub-paragraphs (2)(a), (4) and (8), for “a Primary Care Trust”, substitute “the Board”; and
 - (c) in sub-paragraph (6)—
 - (i) for “The Primary Care Trust”, substitute “The Board”; and
 - (ii) for “the Trust”, substitute “the Board”.
- (47) In paragraph 71 (withdrawal and variation of approval under paragraph 70)—
- (a) in sub-paragraph (1), for “a Primary Care Trust”, substitute “the Board”; and
 - (b) in sub-paragraphs (2) and (3), for “the Primary Care Trust”, substitute “the Board”.
- (48) In paragraph 72(1), for “a Primary Care Trust”, substitute “the Board”.
- (49) In paragraph 73 (patient records)—
- (a) in sub-paragraphs (2)(a) and (b), (4), (6) to (8), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (b) for sub-paragraph (5), substitute—

“(5) Where a patient’s records are computerised records, the contractor must, as soon as possible following a request from the Board, allow the Board to access the information recorded on the computer system on which those records are held by means of the audit function referred to in sub-paragraph (4)(b) to the extent necessary for the Board to confirm that the audit function is enabled and functioning correctly.”.
- (50) In paragraph 77 (provision of information)—
- (a) in sub-paragraphs (1) and (3)(a), for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (b) for sub-paragraph (2), substitute—

“(2) The contractor is not required to comply with any request made in accordance with paragraph (1) unless it has been made by the Board in accordance with directions made by the Secretary of State under section 98A (exercise of functions) of the 2006 Act relating to the provision of information by contractors.”.
- (51) In paragraph 79 (inquiries about prescriptions and referrals), for “the Primary Care Trust”, in each place, substitute “the Board”.
- (52) In paragraph 81 (annual return and review)—
- (a) in sub-paragraphs (1), (1A), (1B), (2) and (4), for “the Primary Care Trust”, substitute “the Board”; and
 - (b) for sub-paragraph (3), substitute—

“(3) Either the contractor or the Board may, if it wishes to do so, invite the Local Medical Committee for the area in which the contractor provides services under the contract to participate in the annual review.”

(53) In the heading to paragraph 82 (notifications to the Primary Care Trust) and in paragraph 82 and paragraph 84, for “the Primary Care Trust”, in each place, substitute “the Board”.

(54) Omit paragraph 83.

(55) In paragraph 85 (notice provisions specific to a contract with a company limited by shares), in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”.

(56) In paragraph 86 (notice provisions specific to a contract with two or more individuals practising in partnership), in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”.

(57) In paragraph 87 (notification of deaths)—

- (a) in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”; and
- (b) omit sub-paragraph (3).

(58) In paragraph 88 (notifications to patients following variation of the contract), for “the Primary Care Trust”, substitute “the Board”.

(59) Paragraph 89 (entry and inspection by the Primary Care Trust) and its heading are amended as follows—

- (a) in the heading to that paragraph and in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”; and
- (b) for sub-paragraph (3), substitute—

“(3) The contractor, the Board or a person authorised in writing by the Board may, if it wishes to do so, invite the Local Medical Committee for the area in which the contractor provides services under the contract, to be present at an inspection of the practice premises which takes place under this paragraph.”

(60) Omit paragraph 91A (entry and viewing by local involvement network representatives).

(61) After paragraph 91 (entry and inspection by the Care Quality Commission) insert—

“Entry and viewing by Local Healthwatch organisations

91B. The contractor must comply with the requirement to allow an authorised representative to enter and view premises and observe the carrying-on of activities on those premises in accordance with regulations made under section 225 (duties of services-providers to allow entry by Local Healthwatch organisations or contractors) of the Local Government and Public Involvement Health Act 2007.”(14).

(62) In paragraph 92 (complaints procedure), omit sub-paragraph (3).

(63) In paragraph 97 (co-operation with investigations)—

- (a) in sub-paragraph (1)(a)(i), for “the Primary Care Trust”, substitute “the Board”;
- (b) in sub-paragraph (2), in the definition of “NHS body”—
 - (i) for “a Primary Care Trust”, substitute “the Board, a CCG,”; and
 - (ii) omit “a Strategic Health Authority,”; and
- (c) in sub-paragraph (3), for “the Primary Care Trust”, in each place, substitute “the Board”.

(64) In paragraph 99 (local resolution of contract disputes)—

(14) 2007 c.28. Section 225 is amended by section 186(6) to (11) of, and paragraphs 148 and 151 of Schedule 5 and paragraphs 103 and 106 of Schedule 14 to, the 2012 Act.

- (i) in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”; and
- (ii) for sub-paragraph (2), substitute—

“(2) Either the contractor or the Board may, if it wishes to do so, invite the Local Medical Committee for the area in which the contractor provides primary medical services to participate in discussions which take place pursuant to sub-paragraph (1).”.

(65) In paragraph 100 (dispute resolution: non-NHS contracts) in sub-paragraph (1), for “the Primary Care Trust”, in each place, substitute “the Board”.

(66) In paragraph 104 (variation of a contract: general), for “the Primary Care Trust”, in each place, substitute “the Board”.

(67) In paragraph 105 (variation provisions specific to a contract with an individual medical practitioner), in sub-paragraphs (1) and (4) to (6), for “the Primary Care Trust”, in each place, substitute “the Board”.

(68) In paragraph 106 (variation provisions specific to a contract with two or more individuals practising in partnership)—

- (a) in sub-paragraphs (2), (4), (4E), (6) and (7), for “the Primary Care Trust”, in each place, substitute “the Board”;

- (b) for sub-paragraphs (4B), (4C) and (4D), substitute—

“(4B) If sub-paragraph (4A) does not apply, the Board—

- (a) must enter into discussions with the remaining individual referred to in sub-paragraph (4) and use its reasonable endeavours to reach an agreement to enable the provision of clinical services to continue under the contract;
- (b) if it considers it appropriate, may consult the Local Medical Committee for the area in which the partnership was providing clinical services under the contract or such other person as the Board considers necessary;
- (c) may, if it considers it appropriate to enable clinical services under the contract to continue, offer the remaining individual reasonable support; and
- (d) must notify the remaining individual if agreement has been reached in accordance with sub-paragraph (4C) or if agreement cannot be reached in accordance with sub-paragraph (4D).

(4C) If the Board reaches an agreement, the Board must serve notice in writing on the remaining individual confirming—

- (i) the terms upon which the Board agrees to the contract continuing with that individual including the period, as specified by the Board, during which the contract is to continue (“the interim period”) and such a period must not exceed six months;
- (ii) that the remaining individual agrees to employing or engaging a general medical practitioner for the interim period to assist in the provision of clinical services under the contract; and
- (iii) the support, if any, which the Board is to provide to enable clinical services under the contract to continue during the interim period.

(4D) If—

- (a) the remaining individual referred to in paragraph (4) does not wish to employ or engage a medical practitioner;
- (b) an agreement in accordance with paragraph (4B) cannot be reached; or
- (c) the remaining individual wishes to withdraw from the agreed arrangements at any stage during the interim period,

the Board must serve notice in writing on the remaining individual terminating the contract forthwith.”;

(c) for sub-paragraph (5), substitute—

“(5) When the Board receives a notice pursuant to sub-paragraph (2) or (4)—

- (a) it must acknowledge receipt of the notice in writing; and
- (b) in relation to a notice served pursuant to sub-paragraph (2), the Board must acknowledge receipt of the notice before the date specified pursuant to sub-paragraph (3)(a).”; and

(d) add after sub-paragraph (8)—

“(9) Sub-paragraphs (4B) to (4D) do not affect any other right which the Board may have under the contract to vary or terminate the contract.”.

(69) In paragraph 107 (termination by agreement), for “The Primary Care Trust”, substitute “The Board”.

(70) In paragraph 107A (termination on the death of an individual medical practitioner)—

(a) for sub-paragraph (1), substitute—

“(1) Where the contract is with an individual medical practitioner and that practitioner dies, the contract must terminate at the end of the period of 7 days after the date of death of that practitioner unless, before the end of that period, sub-paragraph (2A) applies.

(2A) This paragraph applies where the contractor’s personal representatives have confirmed in writing to the Board that they wish to employ or engage one or more general medical practitioners to assist in the continuation of the provision of clinical services under the contract and after discussions with the Board—

- (a) the Board agrees to provide reasonable support which would enable the provision of clinical services under the contract to continue;
- (b) the Board and the personal representatives agree the terms upon which clinical services under the contract can continue to be provided; and
- (c) the Board and the personal representatives agree the period during which clinical services must continue to be provided and such a period must not exceed 28 days starting on the day after the end of the period of 7 days referred to in sub-paragraph (1).”; and

(b) in sub-paragraph (3), for “the Primary Care Trust”, substitute “the Board”.

(71) In paragraph 108 (termination by the contractor), in sub-paragraph (1), for “the Primary Care Trust”, substitute “the Board”.

(72) In paragraph 109 (late payment notices)—

- (a) in sub-paragraph (1) for “the Primary Care Trust” and “the Trust”, in each place, substitute “the Board”; and
- (b) in sub-paragraphs (2) and (3), for “the Primary Care Trust”, in each place, substitute “the Board”.

(73) In the heading to paragraph 110 and in paragraph 110 (termination by the Primary Care Trust: general), for “the Primary Care Trust”, in each place, substitute “the Board”.

(74) In—

- (a) the heading to paragraph 111 and in paragraph 111(1), (1A), (3), (3A), (5) and (6) (termination by the Primary Care Trust for breach of conditions in regulation 4), for “the Primary Care Trust”, in each place, substitute “the Board”; and
- (b) paragraph 111, for sub-paragraph (4), substitute—

“(4) Before deciding which of the options in sub-paragraph (3) to pursue, the Board must, whenever it is reasonably practicable to do so, consult the Local Medical Committee (if any) for the area in which the contractor provides services under the contract.”.

(75) In the heading to paragraph 112 and in paragraph 112 (termination by the Primary Care Trust for the provision of untrue etc. information), for “the Primary Care Trust”, in each place, substitute “the Board”.

(76) The heading to paragraph 113 and paragraph 113 (other grounds for termination by the Primary Care Trust) are amended as follows—

- (a) in the heading and in sub-paragraphs (1) and (2)(d) and (o), for “the Primary Care Trust”, in each place, substitute “the Board”;
- (b) in sub-paragraph (1)(c)(ii), immediately before “legally and beneficially”, insert “both”;
- (c) in sub-paragraph (3)—
 - (i) for “A Primary Care Trust”, substitute “the Board”;
 - (ii) for “the Primary Care Trust”, substitute “the Board”;
 - (iii) in paragraph (c)(i), immediately before “legally and beneficially”, insert “both”;
- (d) in sub-paragraph (4)—
 - (i) for “A Primary Care Trust”, substitute “the Board”;
 - (ii) for “the Primary Care Trust”, substitute “the Board; and
- (e) in sub-paragraph (5)—
 - (i) for “A Primary Care Trust”, substitute “the Board”;
 - (ii) for “the Primary Care Trust”, substitute “the Board; and
 - (iii) in paragraph (c)(i), immediately before “legally and beneficially”, insert “both”.

(77) In paragraph 114, for “the Primary Care Trust”, in each place, substitute “the Board”.

(78) In the heading to paragraph 114A and in paragraph 114A (termination by the Primary Care Trust for unlawful sub-contracting), for “the Primary Care Trust”, in each place, substitute “the Board”.

(79) The heading to paragraph 115 and paragraph 115 (termination by the Primary Care Trust: remedial notices and breach notices) are amended as follows—

- (a) in the heading to paragraph 115 and in paragraph 115, for “the Primary Care Trust”, substitute “the Board”; and
- (b) in sub-paragraph (4), for “a Primary Care Trust”, substitute “the Board”.

(80) In the heading to paragraph 116 and in paragraph 116 (termination by the Primary Care Trust: additional provisions specific to contracts with two or more individuals practising in partnership and companies limited by shares), for “the Primary Care Trust”, in each place, substitute “the Board”.

(81) In paragraph 117 (contract sanctions), in sub-paragraphs (2) to (6), for “the Primary Care Trust”, in each place, substitute “the Board”.

(82) In paragraph 118 (contract sanctions and the NHS dispute resolution procedure), for “the Primary Care Trust”, in each place, substitute “the Board”.

(83) In paragraph 119 (termination and the NHS dispute resolution procedure), for “the Primary Care Trust”, in each place, substitute “the Board”.

(84) In paragraph 120 (consultation with the Local Medical Committee)—

- (a) in sub-paragraph (1)—
 - (i) for “the Primary Care Trust”, substitute “the Board”; and

- (ii) for “for its area”, substitute “for the area in which the contractor provides services under the contract”; and
 - (b) in sub-paragraph (2), for “the Primary Care Trust”, substitute “the Board”.
- (85) In paragraph 121A (clinical governance)—
- (a) for “the Primary Care Trust”, in each place, substitute “the Board”; and
 - (b) for “the Controlled Drugs (Supervision of Management and Use) Regulations 2006”, substitute “section 17 (accountable officers and their responsibilities as to controlled drugs) and section 18 (co-operation between health bodies and other organisations) of the Health Act 2006”.
- (86) Immediately after paragraph 121A, insert—

“Duty as to education and training

121B. The contractor must co-operate with the Secretary of State in the discharge of the duty under section 1F of the 2006 Act (duty as to education and training), or co-operate with Health Education England where Health Education England is discharging that duty by virtue of a direction under section 7 of that Act.”.

- (87) In paragraph 124 (gifts)—
- (a) in sub-paragraph (2)(c)(i), immediately before “legally and beneficially”, insert “both”; and
 - (b) in sub-paragraph (6), for “the Primary Care Trust”, substitute “the Board”.
- (88) In paragraph 125 (compliance with legislation and guidance), for sub-paragraph (b) substitute—
- “(b) have regard to all relevant guidance issued by the Board or the Secretary of State or Local Authorities in respect of the exercise of their functions under the 2006 Act.”.

Amendment of Schedule 10

- 28.**—(1) Schedule 10 (information to be included in practice leaflets) is amended as follows.
- (2) In paragraph 18, for “the Primary Care Trust” to the end of that paragraph, substitute “the Board is responsible for the commissioning of those services.”.
 - (3) Omit paragraphs 19 and 20.
 - (4) For paragraph 28, substitute—
 - “**28.** The full name, postal and email address and telephone number of the Board.”.

Transitional provision

- 29.** The transitional provisions set out in Schedule 1 have effect.