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STATUTORY INSTRUMENTS

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**2013 No. 363**

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

**PART 3**

**AMENDMENTS OF THE PMS AGREEMENT REGULATIONS**

**30.** The PMS Agreements Regulations are amended in accordance with this Part.

**Amendment of regulation 2**

**31.** Regulation 2 (interpretation) is amended as follows—

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

““assessment panel” means the panel appointed by the Board under paragraph 34(3) of Schedule 5;”;

(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 providing 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;

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

(d) in the definition of “chemist”, for “a Primary Care Trust”, substitute “the Board”;

(e) immediately after the definition of “child”, insert—

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(1) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006. 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.

““chiropracist or podiatrist independent prescriber” means a chiropracist or podiatrist 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 chiropracist or podiatrist is qualified to order drugs, medicines and appliances as a chiropracist or podiatrist independent prescriber;”(2);

(f) for the definition of “contractor”, substitute—

““contractor” means a person or persons other than the Board who is a party, or are parties, to the agreement;”;

(g) in the definition of “contractor’s list of patients”, for “the Primary Care Trust”, substitute “the Board”;

(h) 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”;

(i) 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;”;

(j) 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);

(k) 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”;”;

(l) omit the definition of “ETP service”;

(m) in the definition of “home oxygen order form”, for “a Primary Care Trust”, substitute “the Board”;

(n) in the definition of “listed medicines voucher”, for “a Primary Care Trust”, substitute “the Board”;

(o) 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);

(p) omit the definition of “local pharmaceutical services”;

(q) in the definition of “medical card”, for “a Primary Care Trust”, substitute “the Board”;

(r) 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);

(s) omit the definitions of “NHS Care Record” and “NHS Care Record Service”;

(t) for the definition of “nominated dispenser”, substitute—

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(2) S.I. 2002/254; article 5 is amended by S.I. 2009/1182. This Order is renamed by section 213(1) 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;”;

- (u) 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 is—

- (a) provided by the Board, a local authority or the Secretary of State;
- (b) 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;”;

- (v) omit the definition of “NPSA”;

- (w) 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);

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

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

““physiotherapist independent prescriber” means a physiotherapist 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;”;

- (z) 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 agreement;”;

- (aa) 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”—

- (a) a form for the purpose of ordering a drug, medicine or appliance which is—

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(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](http://www.dh.gov.uk).

- (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 ordered more than once; or
- (b) where paragraph 38A(1) (electronic prescriptions) of Schedule 5 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;”;
- (bb) 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 agreement immediately before the coming into force of section 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012;”;
- (cc) for the definition of “registered patient” substitute—

““registered patient” means—

  - (a) a person who is recorded by the Board pursuant to paragraph 13 of Schedule 5 as being on the contractor’s list of patients; or
  - (b) a person whom the contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Board and who has not been notified by the Board as having ceased to be on that list;”;
- (dd) for the definition of “relevant body”, substitute—

““relevant body” means—

  - (a) in a case where a contractor is a party to an agreement with a Primary Care Trust immediately before the coming into force of section 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012, that Primary Care Trust; and
  - (b) in the case where a contractor is a party to an agreement with a Strategic Health Authority immediately before the coming into force of section 33 (abolition of Strategic Health Authorities) of the Health and Social Care Act 2012, that Strategic Health Authority;”;
- (ee) in the definition of “relevant register”—
  - (i) in paragraph (a), omit “and”; and
  - (ii) at the end of paragraph (b), insert—
    - “(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);
- (ff) for the definition of “relevant Strategic Health Authority”—
- ““relevant Strategic Health Authority” means, unless the context otherwise requires, the Strategic Health Authority established for an area which includes the area for which the Primary Care Trust was established and subsisted immediately before the coming into force of section 33 and section 34 of the Health and Social Care Act 2012;”;
- (gg) for the definition of “repeatable prescription”, substitute—
- ““repeatable prescription” means, except in the context of the expression “electronic repeatable prescription” and “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;
- (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 38A(1) of Schedule 5 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); and
- (hh) omit the definition of “walk-in centre”.

### **Substitution of regulation 3**

- 32.** For regulation 3 (conditions: introductory), 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 make an agreement only if the conditions set out in regulation 5 are met.”.

### **Amendment of regulation 5**

- 33.** In regulation 5 (general condition relating to all agreements)—
- (a) in paragraph (1), for “A relevant body”, substitute “The Board”;
- (b) in paragraph (2)—

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(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.

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

- (i) for “A relevant body”, substitute “The Board”; and
- (ii) in sub-paragraph (b), immediately before “legally and beneficially” insert “both”;
- (c) in paragraph (4)—
  - (i) for “the relevant body”, substitute “the Board”; and
  - (ii) in sub-paragraph (b)(i), immediately before “legally and beneficially” insert “both”;
- (d) in paragraph (6)(b)(i), immediately before “legally and beneficially” insert “both”; and
- (e) add after paragraph (6)—

“(7) For the purposes of paragraph (3)(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**

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

#### **Amendment of regulation 7**

- 35. In regulation 7 (appeal), for “the relevant body”, substitute “the Board”.

#### **Amendment of regulation 8**

- 36. In regulation 8 (pre-agreement disputes), in paragraph (3)(b), for “the relevant body”, substitute “the Board”.

#### **Amendment of regulation 9**

- 37. In regulation 9 (health service body status), in paragraphs (1), (4)(a), (5), (6) and (8)(b) for “the relevant body”, in each place, substitute “the Board”.

#### **Amendment of regulation 11**

- 38. In regulation 11 (agreements: general), omit paragraph (4).

#### **Insertion of new regulation 11A**

- 39. After regulation 11 (agreements: general), insert—

##### **“Membership of a CCG**

- 11A. An agreement must contain a term which has the effect of requiring—
  - (a) the contractor, if that contractor provides essential services to patients on its list of patients, 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 13**

**40.** In regulation 13 (finance)—

- (a) in paragraph (1), for “under section 17” to the end of that paragraph substitute—
  - “under section 94(4) (regulations about section 92 arrangements) and section 98A (exercise of functions) of the 2006 Act.”
- (b) in paragraph (2)—
  - (i) for “the relevant body”, in each place, substitute “the Board”; and
  - (ii) for “section 17 or 28E(3A)”, substitute “section 94(4) and section 98A of the 2006 Act”.

### **Substitution of regulation 14**

**41.** For regulation 14 (finance), substitute—

“**14.** The agreement must contain a term to the effect that where, as a consequence of regulation 94(4) or pursuant to directions made under section 98A of the 2006 Act, the Board is required to make a payment to a contractor under an agreement but subject to conditions, those conditions are to be a term of the agreement.”

### **Amendment of regulation 15**

**42.** In regulation 15 (fees and charges), in paragraph (4) for “the relevant body”, in each place, substitute “the Board”.

### **Amendment of regulation 16**

**43.** In regulation 16 (opt outs of out of hours services)—

- (a) in paragraph (1), omit “except paragraph 1(15)” to the end of that paragraph;
- (b) in paragraph (2)—
  - (i) omit “(other than a Primary Care Trust)”; and
  - (ii) omit “except paragraph 1(15)” to the end of that paragraph; and
- (c) omit paragraph (3).

### **Substitution of regulation 18**

**44.** For regulation 18 (other contractual terms), substitute—

“**18.**—(1) An agreement must, unless it is of a type or nature to which the particular term does not apply, contain other terms which have, or make provision having, the same effect as those specified in Schedule 5 except paragraphs 34(5) to (9), 35(5) to (17) (in so far as it relates to a determination by the Secretary of State of an appeal) and paragraphs 95(5) to (14) and 96 (in so far as it relates to an appeal to the Secretary of State).

(2) Paragraphs 34(5) to (9), 35(5) to (17) (in so far as it relates to a determination by the Secretary of State) and paragraphs 95(5) to (14) and 96 (in so far as it relates to an appeal to the Secretary of State) have effect in relation to the matters set out in those paragraphs.”

### **Omission of regulation 18A and insertion of new regulation 18B**

**45.** Omit regulation 18A (variation of contractual terms in respect of entering into arrangements under the Patient Choice Scheme) and after regulation 18 (other contractual terms), insert—

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

**18B.**—(1) This regulation applies where the contractor and the Board enter into arrangements under the Patient Choice Extension Scheme.

(2) The terms of the agreement—

- (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) and (6),

but only to the extent that such variations relate to the provision of primary medical services to patients who received such services under the Patient Choice Scheme and wish to continue to do so under arrangements made in accordance with 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 agreement specified in this paragraph are—

- (a) the terms which require the contractor to provide essential services and any other service;
- (b) the terms which require the contractor to provide out of hours services to patients to whom it provides essential services;
- (c) the following terms in Schedule 5 (other contractual terms)—
  - (i) paragraph 1 (services to registered patients);
  - (ii) paragraph 3(1) (attendance at practice premises);
  - (iii) paragraph 4(2)(a) (attendance outside practice premises); and
  - (iv) paragraph 16(2) (refusal of applications for inclusion in the list of patients).

(4) The agreement 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 comply with those terms, under arrangements made under the Patient Choice Extension Scheme.

(5) The agreement 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 and any other service in core hours, in a case where at the time the treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient; or
- (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.



(6) The agreement 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 19**

- 46.** In regulation 19 (right to a general medical services contract)—
- (a) in paragraphs (1), (2)(b), (4), (5), (8), (9) and (11), for “the relevant body”, in each place substitute “the Board”; and
  - (b) in paragraph (6)(b), for “the Primary Care Trust”, substitute “the Board”.

#### **Omission of regulation 21 and Schedule 6**

**47.** Omit regulation 21 (out of hours services) and Schedule 6 (out of hours transitional provisions).

#### **Amendment to Schedule 3**

- 48.** Schedule 3 (fees and charges) is amended as follows—
- (a) in paragraphs (c) and (g), for “the relevant body”, substitute “the Board”; and
  - (b) for paragraph (k), substitute—
    - “(k) where it is a contractor authorised or required 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; and”.

#### **Amendment of Schedule 4**

- 49.**—(1) Schedule 4 (opt outs of out of hours services) is amended as follows.
- (2) In paragraph 1 (opt outs of out of hours services where the opt out notice is served after 30th September 2004)—
- (a) in the heading and in sub-paragraph (1), for “after 30th September 2004”, substitute “on or after 1st April 2013”;
  - (b) in sub-paragraph (1), omit “(other than a Primary Care Trust)”;
  - (c) in sub-paragraph (2), in the definition of “OOH day”, for “a Primary Care Trust”, substitute “the Board”;
  - (d) in sub-paragraphs (3), (5), (8), (9), (12) and (24)(b), for “the Primary Care Trust”, in each place, substitute “the Board”;
  - (e) 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”.
  - (f) in sub-paragraph (10)—
    - (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);
  - (g) in sub-paragraph (11)—
    - (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”;
  - (h) omit sub-paragraphs (13) to (23).
- (3) Omit paragraph 2 (opt outs of out of hours services where the opt out notice is served before 1st October 2004).
- (4) In paragraph 3 (informing patients of opt outs), for “the Primary Care Trust”, in each place, substitute “the Board”.

### **Amendment of Schedule 5**

- 50.**—(1) Schedule 5 (other contractual terms) is amended as follows.
- (2) In paragraph 4 (attendance outside practice premises), in sub-paragraph (2)(b), for “the relevant body”, substitute “the Board”.
- (3) In paragraph 5 (clinical reports)—
- (a) in sub-paragraph (2)—
    - (i) omit “(other than a Primary Care Trust)”; and
    - (ii) for “the relevant body”, substitute “the Board”; and
  - (b) in sub-paragraph (3)—
    - (i) for “The relevant body”, substitute “The Board”; and
    - (ii) for paragraph (b), substitute—
      - “(b) if the person referred to in paragraph (a) is not known to the Board, to the Local Health Board, Health Board or Health and Social Services Board, in whose area the patient is resident.”.
- (4) In paragraph 9A (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 relevant body”, 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”.
- (5) In paragraph 10 (duty of co-operation), in sub-paragraph (2)(b), for “the relevant body” substitute “the Board”.

(6) In paragraph 11, for “the relevant body or by any person” to the end of that paragraph substitute “the Board or by any person with whom the Board intends to enter into an agreement for the provision of such services.”.

(7) In paragraph 12 (general provision), omit sub-paragraph (2).

(8) In paragraph 13 (list of patients), for “the Primary Care Trust”, substitute “the Board”.

(9) In paragraph 14 (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 15 (temporary residents), in sub-paragraph (4) for “the Primary Care Trust”, substitute “the Board”.

(11) In paragraph 16 (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 18 (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 19 (removal from the list at the request of the contractor), in sub-paragraphs (1)(a), (3), and (6) to (9) for “the Primary Care Trust”, in each place, substitute “the Board”.

(14) In paragraph 20 (removals from the list of patients who are violent), in sub-paragraphs (1) and (4) to (7), for “the Primary Care Trust”, in each place, substitute “the Board”.

(15) In paragraph 21 (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 paragraphs 22 and 23 (removals from the list of patients who have moved), for “the Primary Care Trust”, in each place, substitute “the Board”.

(17) In paragraph 24 (removal 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 25 (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 26 (removals from a list of pupils etc. of a school), for “the Primary Care Trust”, substitute “the Board”.

(20) In paragraph 27 (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 28A (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 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 agreement”.
- (22) In paragraph 28B (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 agreement”; and
  - (b) in sub-paragraph (2)(a)(ii), for “the Primary Care Trust”, substitute “the Board”.
- (23) In paragraph 28C (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 agreement”; and
  - (b) in sub-paragraph (2), for “a Primary Care Trust” and “the Primary Care Trust”, substitute “the Board”.
- (24) In paragraph 28D (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 agreement”; 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 agreement”.
- (25) In paragraph 28E (re-opening of list of patients), for “a Primary Care Trust”, substitute “the Board”.
- (26) In paragraph 31 (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 paragraphs 32, and 34 to 36, 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 11(1A)) that person resides.”
- (27) In paragraph 32 (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 33, assign a new patient to a contractor which has closed its list of patients, if—

- (a) the assessment panel has determined under paragraph 34(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 35(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 36.”.

(28) For paragraph 33 (factors relevant to assignments), substitute—

“**33.** In making an assignment to a contractor under paragraph 31 or 32, 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 19 (removals from the list at the request of the contractor);
  - (ii) paragraph 20 (removals 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 a contract made in accordance with the General Medical Services Contracts Regulations;
- (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 34 (assignments to closed lists: determinations of the assessment panel), substitute—

“**34.**—(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 a contract made in accordance with the General Medical Services Contracts Regulations, 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 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 essential 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 its proposed 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).<sup>(9)</sup>

(30) In paragraph 35 (assignment 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) In paragraph 36 (assignments to closed lists: assignments of patients), for sub-paragraph (1), substitute—

**“36.—(1)** Before the Board may assign a new patient to a contractor, it must, subject to 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 38 (prescribing)—

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

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(9) 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;” and
      - (ii) in paragraph (c), for “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 38A (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), omit “in his NHS Care Record”; and
  - (b) in sub-paragraph (3)(a), for “the Primary Care Trust”, substitute “the Board”.
- (34) In paragraph 38B (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 the 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 which is operated by the Information Centre for Health and Social Care.”;
  - (b) in sub-paragraph (2), for “ETP service”, substitute “Electronic Prescription Service”; and
  - (c) in sub-paragraph (4)(b), for “an ETP service” to the end, substitute “an Electronic Prescription Service as given to the contractor by the Board”.
- (35) In paragraph 39 (repeatable prescribing services)—
  - (a) in sub-paragraph (1)(b), substitute—
    - “(b) has notified the Board of its intention to provide repeatable prescribing services in accordance with sub-paragraphs (3) and (4).”;
  - (b) in sub-paragraph (2)(d) for “in an area of the Primary Care Trust”, substitute “in the Local Authority area”;
  - (c) in sub-paragraph (7), 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.”; and
  - (d) in sub-paragraph (8)(b), insert immediately before “a legal and beneficial”, “both”.
- (36) In paragraph 40 (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 41 (restrictions on prescribing by medical practitioners), in sub-paragraph (2)(c)(ii), for “the Primary Care Trust”, substitute “the Board”.

(38) In paragraph 42 (restrictions on prescribing by supplementary prescribers), in sub-paragraph (2)(d)(iii), for “the Primary Care Trust”, substitute “the Board”.

(39) In paragraph 44 (excessive prescribing), for sub-paragraph (2), substitute—

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

(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;”(10);

(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 63 (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.”(11).

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(10) 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).

(11) 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.



(43) For—

- (a) the heading to paragraph 65 and for sub-paragraphs (1) to (3) of paragraph 65 (independent nurse prescribers, pharmacist independent prescribers and supplementary prescribers), substitute—

**“Notification requirements in respect of specified prescribers**

**65.—(1) Where—**

- (a) a contractor employs or engages a person who is specified in sub-paragraph (3) whose functions will include prescribing;
- (b) a party to the agreement is a person who is specified in sub-paragraph (3); or
- (c) the functions of a person who is a person specified in sub-paragraph (3) 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 to the agreement (unless immediately before becoming such a party, the person fell under paragraph (a)), or the person’s functions were extended.

(2) Where—

- (a) a contractor ceases to employ or engage a person who is specified in sub-paragraph (3) whose functions will include prescribing in its practice;
- (b) a party to the agreement who is a person who is specified in sub-paragraph (3) ceases to be a party to the agreement;
- (c) the functions of a person who is a person specified in sub-paragraph (3) 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 (3) 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.

(3) 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 relevant body” in paragraph 65(4) and (5), substitute “the Board”.

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

(a) in sub-paragraph (1)—

(i) for paragraph (a), substitute—

“(a) participates in the appraisal system provided by the Board, unless that contractor participates in an appropriate appraisal system provided by another health service body or is an armed forces GP; and”;

(ii) for paragraph (b), substitute—

- “(b) co-operates with the Board in relation to the Board’s patient safety functions.”(12).
- (b) for sub-paragraph (2), substitute—
- “(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 agreement and with such other persons as appear to it to be appropriate.”.
- (45) In paragraph 69 (sub-contracting of clinical matters) in sub-paragraph (2), for “the relevant body”, in each place, substitute “the Board”.
- (46) In paragraph 70 (patient records)—
- (a) in sub-paragraphs (3) and (7)—
- (i) omit “(other than a Primary Care Trust)”; and
- (ii) for “the relevant body”, in each place, substitute “the Board”;
- (b) in sub-paragraph (6)—
- (i) omit “(other than the Primary care Trust)”; and
- (ii) for “the relevant body”, in each place, substitute “the Board”;
- (c) in sub-paragraphs (5), (8) and (9) for “the relevant body”, in each place, substitute “the Board”.
- (47) In paragraph 73 (provision of information)—
- (a) for sub-paragraphs (1) and (2), substitute—
- “(1) Subject to sub-paragraph (2), the contractor must, at the request of the Board, produce to it or to a person authorised in writing by the Board, or allow it, or a person authorised by it to access—
- (a) any information which is reasonably required by the Board for the purposes of or in connection with the agreement; and
- (b) any other information which is reasonably required by it in connection with the Board’s functions.
- (2) The contractor is not required to comply with any request made in accordance with sub-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.”; and
- (b) in sub-paragraph (3)(a), for “the relevant body”, substitute “the Board”.
- (48) In paragraph 75 (inquiries about prescriptions and referrals)—
- (a) in sub-paragraph (1)—
- (i) omit “(other than a Primary Care Trust)”; and
- (ii) for “the relevant body”, substitute “the Board”; and
- (b) in sub-paragraphs (2) and (3), for “the relevant body”, in each place, substitute “the Board”.
- (49) In paragraph 77 (annual return and review)—
- (a) in sub-paragraph (1)—
- (i) for “the relevant body”, substitute “the Board”; and

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(12) 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.

- (ii) for “that body”, substitute “it”; and
  - (b) in sub-paragraphs (1A), (1B), (2) and (3), for “the relevant body”, in each place, substitute “the Board”.
- (50) For—
- (a) the heading to paragraph 78 and in paragraph 78 (notifications to the relevant body), for “the relevant body”, in each place, substitute “the Board”;
  - (b) “the relevant body’s” in paragraph 78(b), substitute “the Board’s”; and
  - (c) “a Primary Care Trust” in paragraph 78(c) and (d), substitute “the Board”.
- (51) Omit paragraph 79.
- (52) In paragraph 80 (notice provisions specific to an agreement with a qualifying body), in sub-paragraph (1) for “the relevant body”, substitute “the Board”.
- (53) In paragraph 81 (notification of deaths)—
- (a) in sub-paragraph (1), for “the relevant body”, substitute “the Board”; and
  - (b) omit sub-paragraphs (3) and (4).
- (54) In paragraph 82 (notifications to patients following variation of the agreement), for “the relevant body, or where the relevant body is a Strategic Health Authority, the contractor” substitute “the Board”.
- (55) In the heading to paragraph 83 and in paragraph 83(1) (entry and inspection by the relevant body), for “the relevant body”, substitute “the Board”.
- (56) In paragraph 85 (entry and inspection by the Care Quality Commission), omit “(other than a Primary Care Trust)”.
- (57) Omit paragraph 85A and after paragraph 85 (entry and inspection by the Care Quality Commission) insert—

**“Entry and viewing by Local Healthwatch organisations**

**85B.** 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.”(13).

- (58) In paragraph 86 (complaints procedure), omit paragraph (3).
- (59) In paragraph 91 (co-operation with investigations)—
- (a) in sub-paragraph (1)—
    - (i) omit “(other than a Primary Care Trust”); and
    - (ii) for paragraph (a), substitute “(a) the Board; and”;
  - (b) in sub-paragraph (3), 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 (4), for “the relevant body”, in each place, substitute “the Board”.
- (60) In paragraph 93 (local resolution of agreement disputes), in sub-paragraph (1), for “the relevant body”, substitute “the Board”.

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(13) 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.

(61) In paragraph 94 (dispute resolution: non-NHS contracts) in sub-paragraph (1), for “the relevant body”, in each place, substitute “the Board”.

(62) In paragraph 98 (variation of an agreement: general), for “the relevant body”, in each place, substitute “the Board”.

(63) In paragraph 99 (termination by agreement), for “The relevant body”, substitute “The Board”.

(64) In paragraph 99A (termination on death) for “the Primary Care Trust”, in each place, substitute “the Board”.

(65) In paragraph 100 (termination by serving notice), in sub-paragraphs (1) and (4), for “the relevant body”, substitute “the Board”.

(66) In paragraph 101 (late payment notices), in sub-paragraphs (1) to (3), in each place, for “the relevant body”, in each place, substitute “the Board”.

(67) In the heading to paragraph 104 and in paragraph 104 (termination by the relevant body for the provision of untrue etc. information), for “the relevant body”, in each place, substitute “the Board”.

(68) The heading to paragraph 105 and paragraph 105 (termination by the relevant body on fitness grounds) are amended as follows—

- (a) in the heading to paragraph 105 and in sub-paragraph (1) of paragraph 105 , for “the relevant body”, substitute “the Board”;
- (b) in sub-paragraph (1)(b)(ii), immediately before “legally and beneficially” insert “both”;
- (c) in sub-paragraph (3)—
  - (i) in paragraph (c), for “the relevant body”, substitute “the Board”;
  - (ii) in paragraph (d), for “section 49F(2), (3) and (4) respectively”, substitute “section 151(2), (3) and (4) of the 2006 Act respectively”;
- (d) in sub-paragraph (4)—
  - (i) for “A relevant body”, substitute “The Board”;
  - (ii) for “the relevant body”, substitute “the Board”; and
  - (iii) in paragraph (b)(i), immediately before “legally and beneficially” insert “both”;
- (e) in sub-paragraph (5)—
  - (i) for “A relevant body”, substitute, in each place, “The Board”; and
  - (ii) for “the relevant body”, substitute “the Board”; and
- (f) in sub-paragraph (6)—
  - (i) for “A relevant body”, substitute “The Board”;
  - (ii) for “the relevant body”, substitute “the Board”; and
  - (iii) in paragraph (b)(i), immediately before “legally and beneficially” insert “both”.

(69) In the heading to paragraph 106 and in paragraph 106 (termination by the relevant body where there is a serious risk to the safety of patients or risk of financial loss to the relevant body), for “the relevant body”, in each place, substitute “the Board”.

(70) In—

- (a) the heading to paragraph 106A and in paragraph 106A (termination by the relevant body for unlawful sub-contracting) for “the relevant body”, in each place, substitute “the Board”; and
- (b) paragraph 106A, for “the relevant body’s”, substitute “the Board’s”.

(71) In—

- (a) the heading to paragraph 107 and in sub-paragraphs (1) to (3) and (5) to (8) of paragraph 107 (termination by the relevant body: remedial notices and breach notices) for “the relevant body”, in each place, substitute “the Board”; and
- (b) sub-paragraph (4) of paragraph 107—
  - (i) for “a relevant body”, substitute “the Board”; and
  - (ii) for “the relevant body”, substitute, in each place, “the Board”.

(72) In the heading to paragraph 108 and in paragraph 108 (termination by the relevant body: additional provisions specific to agreements with qualifying bodies), for “the relevant body”, in each place, substitute “the Board”.

(73) In paragraph 109 (agreement sanctions)—

- (a) in sub-paragraph (2)—
  - (i) for “the relevant body”, in each place, substitute “the Board”; and
  - (ii) for “the relevant body’s” substitute “the Board’s”; and
- (b) in sub-paragraphs (3) to (5), for “the relevant body”, in each place, substitute “the Board”.

(74) In paragraph 110 (agreement sanctions and the NHS dispute resolution procedure), for “the relevant body”, in each place, substitute “the Board”.

(75) In paragraph 111 (termination and the NHS dispute resolution procedure) in sub-paragraphs (1) to (3) and (5), for “the relevant body”, in each place, substitute “the Board”.

(76) For paragraph 112A (clinical governance), substitute—

“**112A.** The contractor must co-operate with the Board in the discharge of any obligations of the Board or its accountable officers under 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.”.

(77) Immediately after paragraph 112A, insert—

**“Duty as to education and training**

**112B.** 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.”.

(78) In paragraph 115 (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.”.

(79) In paragraph 117 (gifts)—

- (a) in sub-paragraph (2)(b)(i), immediately before “legally and beneficially” insert “both”; and
- (b) in sub-paragraph (6), for “the relevant body”, substitute “the Board”.

**Omission of Schedule 7**

**51.** Schedule 7 (modification of patient provisions where the contractor is a Primary Care Trust) is omitted.

### **Amendment of Schedule 10**

**52.**—(1) Schedule 10 (information to be included in a contractor’s leaflet) is amended as follows.

(2) For paragraph 16, substitute—

“**16.** Where the services referred to in paragraph 15 are not provided by the contractor, the fact that the Board is responsible for commissioning the services.”.

(3) Omit paragraphs 17, 18 and 27.

(4) For paragraph 26, substitute—

“**26.** The full name, postal and email address and telephone number of the Board.”.

### **Transitional provisions**

**53.** The transitional provisions set out in Schedule 2 have effect.