

SCHEDULES

SCHEDULE 3

CONFERRAL OF PRIMARY CARE FUNCTIONS ON INTEGRATED CARE BOARDS ETC

PART 1

CONFERRAL OF FUNCTIONS ETC

Preliminary

- 1 The National Health Service Act 2006 is amended as follows.

Power to require NHS England to continue to exercise certain primary care functions

- 2 In section 3B (Secretary of State’s power to require NHS England to commission services), in subsection (1)—
- (a) before paragraph (a) insert—
 - “(za) primary medical services of a prescribed description;”;
 - (b) after paragraph (a), insert—
 - “(aa) primary ophthalmic services of a prescribed description;”.

Medical services

- 3 For section 83 and the italic heading before it substitute—

“Meaning of primary medical services

82A Primary medical services for purposes of this Act

- (1) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary medical services for the purposes of this Act.
- (2) Regulations under this section may, in particular, describe services by reference to the manner or circumstances in which they are provided.

Duty of integrated care boards to arrange primary medical services

82B Duty of integrated care boards to arrange primary medical services

- (1) Each integrated care board must exercise its powers so as to secure the provision of primary medical services to such extent as it considers necessary

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to meet the reasonable requirements of the persons for whom it has responsibility.

- (2) For the purposes of this section an integrated care board has responsibility for—
- (a) the group of people for whom it has core responsibility (see section 14Z31), and
 - (b) such other people as may be prescribed (whether generally or in relation to a prescribed service).

General functions

83 General power to make arrangements

- (1) An integrated care board may make such arrangements for the provision of primary medical services as it considers appropriate for the purpose of discharging its functions under section 82B (and may, in particular, make contractual arrangements with any person).
- (2) NHS England may make such arrangements for the provision of primary medical services as it considers appropriate for the purpose of discharging any functions under section 3B(1) (and may, in particular, make contractual arrangements with any person).
- (3) The arrangements that may be made under this section include—
 - (a) in the case of an integrated care board, arrangements for the performance of a service outside its area (whether or not in England);
 - (b) in the case of NHS England, arrangements for the performance of a service outside England.
- (4) Arrangements under this section may confer discretions on a person with whom they are made in relation to anything to be provided under the arrangements.
- (5) The powers under this section are in addition to the powers conferred by sections 84 and 92.

83A Publication of information

Each integrated care board and NHS England must publish information about such matters as may be prescribed in relation to the primary medical services provided under this Act.”

- 4
- (1) Section 84 (general medical services contracts: introductory) is amended as follows.
 - (2) In subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
 - (3) In subsection (3) for “the Board” substitute “the integrated care board or NHS England (as the case may be)”.
 - (4) For subsection (4) substitute—

- “(4) The services to be provided under a general medical services contract may include services which are not primary medical services.
- (4A) The services to be provided under a general medical services contract may include—
- (a) in the case of a contract entered into by an integrated care board, services to be performed outside its area (whether or not in England);
 - (b) in the case of a contract entered into by NHS England, services to be performed outside England.
- (4B) A general medical services contract may confer discretions on a person with whom it is made in relation to anything to be provided under the contract.”
- (5) In subsection (5), for “the Board” substitute “the integrated care board or NHS England”.
- 5 In section 86 (persons eligible to enter into GMS contracts), in subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
- 6 In section 87 (GMS contracts: payments), in subsection (3)(d), for “the Board” substitute “an integrated care board or NHS England”.
- 7 (1) Section 89 (GMS contracts: other required terms) is amended as follows.
- (2) Omit subsections (1A) to (1E).
 - (3) In subsection (4)(a), for “the Board” substitute “an integrated care board or NHS England”.
- 8 (1) Section 91 (persons performing primary medical services) is amended as follows.
- (2) In subsection (1), for “the Board”, in the first place it occurs, substitute “an integrated care board or NHS England”.
 - (3) In subsection (2), for paragraph (b) substitute—
 - “(b) an integrated care board or NHS England is responsible for a primary medical service if it secures its provision under or by virtue of any enactment.”
- 9 (1) Section 92 (arrangements for the provision of primary medical services) is amended as follows.
- (2) In the heading, for “the Board” substitute “an integrated care board or NHS England”.
 - (3) For subsection (1), substitute—
 - “(1) An integrated care board or NHS England may make agreements, other than arrangements pursuant to section 83 or general medical services contracts, under which primary medical services are provided.”
 - (4) After subsection (5) insert—
 - “(5A) An agreement may confer discretions on a person with whom it is made in relation to anything to be provided under the agreement.”
- 10 In section 93 (persons with whom agreements may be made under section 92), in subsection (1), for “The Board” substitute “An integrated care board or NHS England”.

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- 11 (1) Section 94 (regulations about section 92 arrangements) is amended as follows.
- (2) In subsection (2), for “the Board” substitute “an integrated care board or NHS England”.
- (3) In section (3), for paragraph (ca) substitute—
- “(ca) provide that section 92 arrangements made by an integrated care board may be made in relation to services to be performed outside its area (whether or not in England),
- (cb) provide that section 92 arrangements made by NHS England may be made in relation to services to be performed outside England.”.
- (4) Omit subsections (3A) to (3E).
- (5) In subsection (6), for “the Board” substitute “an integrated care board or NHS England”.
- (6) In subsection (7), omit “to” in the first place it occurs.
- 12 (1) Section 96 (assistance and support: primary medical services) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Board” substitute “An integrated care board”;
- (b) in paragraph (za), for “83(2)” substitute “83”.
- (3) In subsection (2)—
- (a) for “the Board”, in the first place it occurs, substitute “an integrated care board”;
- (b) for “the Board”, in the second place it occurs, substitute “the integrated care board”.
- 13 (1) Section 97 (Local Medical Committees) is amended as follows.
- (2) In subsection (1), for “The Board may recognise a committee formed for an area, which it is satisfied” substitute “An integrated care board may recognise a committee formed for an area that includes the whole or part of the integrated care board’s area if it is satisfied that the committee”.
- (3) In subsection (3)(b), for “the Board” substitute “the integrated care board”.
- (4) In subsection (6), for “the Board” substitute “an integrated care board”.
- (5) In subsection (10)—
- (a) for “The Board” substitute “An integrated care board”;
- (b) in paragraphs (a) and (b), for “the Board” substitute “the integrated care board”.
- 14 For section 98A substitute—

“98A Delegation of Secretary of State’s functions to NHS England

- (1) The Secretary of State may direct NHS England to exercise any of the Secretary of State’s functions relating to the provision of primary medical services.
- (2) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.

98B NHS England’s power to direct integrated care boards

NHS England may give directions to an integrated care board about the exercise by it of any of its functions under this Part.”

Dental services

15 For section 99 and the italic heading before it substitute—

“Meaning of primary dental services

98C Primary dental services for purposes of this Act

- (1) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary dental services for the purposes of this Act.
- (2) Regulations under this section may, in particular, describe services by reference to the manner or circumstances in which they are provided.

Duty of integrated care boards to arrange primary dental services

99 Duty of integrated care boards to arrange primary dental services

- (1) Each integrated care board must exercise its powers so as to secure the provision of primary dental services to such extent as it considers necessary to meet the reasonable requirements of the people for whom it has responsibility.
- (2) For the purposes of this section an integrated care board has responsibility for—
 - (a) the group of people for whom it has core responsibility (see section 14Z31), and
 - (b) such other people as may be prescribed (whether generally or in relation to a prescribed service).

General functions

99A General power to make arrangements

- (1) An integrated care board may make such arrangements for the provision of primary dental services as it considers appropriate for the purpose of discharging its functions under section 99 (and may, in particular, make contractual arrangements with any person).
- (2) NHS England may make such arrangements for the provision of primary dental services as it considers appropriate for the purpose of discharging any functions under section 3B(1) (and may, in particular, make contractual arrangements with any person).
- (3) The arrangements that may be made under this section include—

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- (a) in the case of an integrated care board, arrangements for the performance of a service outside its area (whether or not in England);
- (b) in the case of NHS England, arrangements for the performance of a service outside England.

(4) The powers in this section are in addition to the powers conferred by sections 100 and 107.

99B Publication of information

Each integrated care board and NHS England must publish information about such matters as may be prescribed in relation to the primary dental services provided under this Act.”

- 16 (1) Section 100 (general dental services contracts: introductory) is amended as follows.
- (2) In subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
- (3) In subsection (3)—
- (a) for “the Board” substitute “the integrated care board or NHS England (as the case may be)”;
 - (b) in paragraph (a) omit the words from “(which” to the end.
- (4) After subsection (3) insert—
- “(3A) The services to be provided under a general dental services contract may include services which are not primary dental services.
- (3B) The services to be provided under a general dental services contract may include—
- (a) in the case of a contract entered into by an integrated care board, services to be performed outside its area (whether or not in England);
 - (b) in the case of a contract entered into by NHS England, services to be performed outside England.”
- (5) In subsection (4), for “the Board” substitute “the integrated care board or NHS England”.
- 17 In section 102 (persons eligible to enter into GDS contracts), in subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
- 18 In section 103 (GDS contracts: payments), in subsection (3)(d), for “the Board” substitute “an integrated care board or NHS England”.
- 19 In section 104 (GDS contracts: other required terms), in subsection (3), for “the Board” substitute “an integrated care board or NHS England”.
- 20 (1) Section 106 (persons performing primary dental services) is amended as follows.
- (2) In subsection (1), for “the Board”, in the first place it occurs, substitute “an integrated care board or NHS England”.
- (3) In subsection (2), for paragraph (b) substitute—

- “(b) an integrated care board or NHS England is responsible for a primary dental service if it secures its provision under or by virtue of any enactment.”
- 21 (1) Section 107 (arrangements for the provision of primary dental services) is amended as follows.
- (2) In the heading, for “the Board” substitute “an integrated care board or NHS England”.
- (3) For subsection (1) substitute—
- “(1) An integrated care board or NHS England may make agreements, other than arrangements pursuant to section 99A or general dental services contracts, under which primary dental services are provided.”
- (4) Omit subsection (6).
- 22 In section 108 (persons with whom agreements may be made under section 107), in subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
- 23 (1) Section 109 (regulations about section 107 arrangements) is amended as follows.
- (2) In subsection (2), for “the Board” substitute “an integrated care board or NHS England”.
- (3) In section (3), for paragraph (ca) substitute—
- “(ca) provide that section 107 arrangements made by an integrated care board may be made in relation to services to be performed outside its area (whether or not in England),
- (cb) provide that section 107 arrangements made by NHS England may be made in relation to services to be performed outside England.”.
- (4) In subsection (6), for “the Board” substitute “an integrated care board or NHS England”.
- (5) In subsection (7), omit “to” in the first place it occurs.
- 24 (1) Section 112 (assistance and support: primary dental services) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Board” substitute “An integrated care board”;
- (b) before paragraph (a) insert—
- “(za) primary dental services pursuant to section 99A,”.
- (3) In subsection (2)—
- (a) for “the Board”, in the first place it occurs, substitute “an integrated care board”;
- (b) for “the Board”, in the second place it occurs, substitute “the integrated care board”.
- 25 (1) Section 113 (Local Dental Committees) is amended as follows.
- (2) In subsection (1), for “The Board may recognise a committee formed for an area, which it is satisfied” substitute “An integrated care board may recognise a committee formed for an area that includes the whole or part of the integrated care board’s area if it is satisfied that the committee”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (3)—
- (a) in paragraph (a), omit sub-paragraph (i);
 - (b) in paragraph (b), for “the Board” substitute “the integrated care board”.
- (4) In subsection (6), for “the Board” substitute “an integrated care board”.
- (5) In subsection (10)—
- (a) for “The Board” substitute “An integrated care board”;
 - (b) in paragraphs (a) and (b), for “the Board” substitute “the integrated care board”.
- 26 For section 114A substitute—

“114A Delegation of Secretary of State’s functions to NHS England

- (1) The Secretary of State may direct NHS England to exercise any of the Secretary of State’s functions relating to the provision of primary dental services.
- (2) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.

114B NHS England’s power to direct integrated care boards

NHS England may give directions to an integrated care board about the exercise by it of any of its functions under this Part.”

Ophthalmic services

- 27 Before section 115 (and the italic heading before it) insert—

“Meaning of primary ophthalmic services

114C Primary ophthalmic services for purposes of this Act

- (1) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary ophthalmic services for the purposes of this Act (but these regulations may not affect the duty in section 115(1)(a)).
 - (2) Regulations under this section may, in particular, describe services by reference to the manner or circumstances in which they are provided.”
- 28 In the italic heading before section 115, for “the Board” substitute “integrated care boards”.
- 29 (1) Section 115 (primary ophthalmic services) is amended as follows.
- (2) For the heading substitute “Duty of integrated care boards to arrange primary ophthalmic services”.
 - (3) For subsections (1) and (1A) substitute—
 - “(1) Each integrated care board must exercise its powers so as to secure the provision of the following primary ophthalmic services to such extent as it

considers necessary to meet the reasonable requirements of the people for whom it has responsibility—

- (a) the sight-testing service mentioned in subsection (2),
- (b) such other primary ophthalmic services as may be prescribed, and
- (c) to the extent that it considers necessary to meet all reasonable requirements, any further primary ophthalmic services.

(1A) For the purposes of this section an integrated care board has responsibility for—

- (a) the group of people for whom it has core responsibility (see section 14Z31), and
- (b) such other people as may be prescribed (whether generally or in relation to a prescribed service).”

(4) Omit subsections (4), (4A), (5), (7) and (8).

30 After section 116 insert—

“General functions

116A General powers to make arrangements

- (1) An integrated care board may make such arrangements for the provision of primary ophthalmic services as it considers appropriate for the purpose of discharging its functions under section 115 (and may, in particular, make contractual arrangements with any person).
- (2) NHS England may make such arrangements for the provision of primary ophthalmic services as it considers appropriate for the purpose of discharging any functions under section 3B (and may, in particular, make contractual arrangements with any person).
- (3) The arrangements that may be made under this section include—
 - (a) in the case of an integrated care board, arrangements for the performance of a service outside its area (whether or not in England);
 - (b) in the case of NHS England, arrangements for the performance of a service outside England.
- (4) The powers in this section are in addition to the power conferred by section 117.

116B Publication of information

Each integrated care board and NHS England must publish information about such matters as may be prescribed in relation to the primary ophthalmic services provided under this Act.”

31 (1) Section 117 (general ophthalmic services contracts: introductory) is amended as follows.

(2) In subsection (1), for “The Board” substitute “An integrated care board or NHS England”.

Status: This is the original version (as it was originally enacted).

- (3) In subsection (3) for “the Board” substitute “the integrated care board or NHS England (as the case may be)”.
- (4) For subsection (4) substitute—
- “(4) The services to be provided under a general ophthalmic services contract may include services which are not primary ophthalmic services.
- (4A) The services to be provided under a general ophthalmic services contract may include—
- (a) in the case of a contract entered into by an integrated care board, services to be performed outside its area (whether or not in England);
- (b) in the case of a contract entered into by NHS England, services to be performed outside England.”
- (5) In subsection (5), for “the Board” substitute “the integrated care board or NHS England”.
- 32 In section 118 (persons eligible to enter into GOS contracts), in subsection (1), for “The Board” substitute “An integrated care board or NHS England”.
- 33 In section 119 (exclusion of contractors), in subsection (1), for “the Board” substitute “an integrated care board or NHS England”.
- 34 In section 120 (GOS contracts: payments), in subsection (3)(d), for “the Board” substitute “an integrated care board or NHS England”.
- 35 In section 121 (GOS contracts: other required terms), in subsection (3)(a), for “the Board” substitute “an integrated care board or NHS England”.
- 36 (1) Section 123 (persons performing primary ophthalmic services) is amended as follows.
- (2) In subsection (1), for “the Board”, in the first place it occurs, substitute “an integrated care board or NHS England”.
- (3) In subsection (2), for paragraph (b) substitute—
- “(b) an integrated care board or NHS England is responsible for a primary ophthalmic service if it secures its provision under or by virtue of any enactment.”
- 37 (1) Section 124 (assistance and support: primary ophthalmic services) is amended as follows.
- (2) In subsection (1), for “The Board” substitute “An integrated care board”.
- (3) In subsection (2)—
- (a) for “the Board”, in the first place it occurs, substitute “an integrated care board”;
- (b) for “the Board”, in the second place it occurs, substitute “the integrated care board”.
- 38 (1) Section 125 (Local Optical Committees) is amended as follows.
- (2) In subsection (1), for “The Board may recognise a committee formed for an area, which it is satisfied” substitute “An integrated care board may recognise a committee formed for an area that includes the whole or part of the integrated care board’s area if it is satisfied that the committee”.

- (3) In subsection (3)(b), for “the Board” substitute “the integrated care board”.
- (4) In subsection (7), for “the Board” substitute “an integrated care board”.
- (5) In subsection (10)—
 - (a) for “The Board” substitute “An integrated care board”;
 - (b) in paragraphs (a) and (b), for “the Board” substitute “the integrated care board”.

39 For section 125A substitute—

“125A Delegation of Secretary of State’s functions to NHS England

- (1) The Secretary of State may direct NHS England to exercise any of the Secretary of State’s functions relating to the provision of primary ophthalmic services.
- (2) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.

125B NHS England’s power to direct integrated care boards

NHS England may give directions to an integrated care board about the exercise by it of any of its functions under this Part.”

Pharmaceutical services

40 For section 168A substitute—

“168A Delegation of Secretary of State’s functions to NHS England

- (1) The Secretary of State may direct NHS England to exercise any of the Secretary of State’s functions relating to services that may be provided as pharmaceutical services, or as local pharmaceutical services, under this Part.
- (2) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.”