

# General Practitioners Defence Fund

GPC Secretariat, 3rd Floor, BMA House, Tavistock Square, London, WC1H 9JP  
Direct Line: 020 7383 6518 Fax: 020 7383 6406

# GPDF

General Practitioners  
Defence Fund

## **“Consolidated” Regulations**

The attached “Consolidated” Regulations have been prepared at the request of the GPDF for the use of LMC Officers, members of the GPC and its subcommittees together with their Secretariats.

They have been circulated on the understanding that:

- They are only provided for administrative convenience
- Reference should always be made to the original documents before acting on any provision in the Regulations
- They must not be circulated beyond LMC Officers and members of the GPC
- The Regulations consolidate changes to Regulations made in 2004 and amended up to and including 01 April 2014
- No further consolidation is planned
- The GPDF its legal and other advisers are not responsible for any errors omissions or failures in the documents

J T Canning  
Treasurer

April 2014

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)

2004 No 627

**NATIONAL HEALTH SERVICE, ENGLAND**

**National Health Service (Personal Medical Services Agreements) Regulations 2004**

Made 8th March 2004

Laid before Parliament 11th March 2004

Coming into force 1st April 2004

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 28D, 28E and 126(4) of the National Health Service Act 1977, section 4(5) of the National Health Service and Community Care Act 1990 and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**NOTES**

**Continuation**

Following the consolidation of the enabling authority these Regulations now have effect as if made under the National Health Service Act 2006, ss 9, 93, 94, by virtue of the National Health Service (Consequential Provisions) Act 2006, s 4, Sch 2, Pt 1, para 1.

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<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

Made 8th March 2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 1 General/1

**Part 1**

**General**

**Citation, commencement and application**

1

(1) These Regulations may be cited as the National Health Service (Personal Medical Services Agreements) Regulations 2004 and shall come into force on 1st April 2004.

(2) These Regulations apply in relation to England only.

**NOTES**

**Initial Commencement**

*Specified date*

Specified date: 1 April 2004: see para (1) above.

**Extent**

These Regulations apply to England only: see para (2) above.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 1 General/2

**Interpretation**

## 2

In these Regulations--

"the Act" means the National Health Service Act 1977;

"the 1990 Act" means the National Health Service and Community Care Act 1990;

["the 2006 Act" means the National Health Service Act 2006;]

. . .

"Abolition of the Tribunal Regulations" means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001;

"Abolition of the Tribunal (Wales) Regulations" means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002;

"adjudicator" means the Secretary of State or a person or persons appointed by the Secretary of State under section 4(5) of the 1990 Act or paragraph 95(5) of Schedule 5;

["advanced electronic signature" means an electronic signature which is--

- (a) uniquely linked to the signatory,
- (b) capable of identifying the signatory,
- (c) created using means that the signatory can maintain under his sole control, and
- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;]

"agreement" means, except where the context otherwise requires, an agreement for primary medical services made under section 28C of the Act;

"appliance" means an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

"approved medical practice" shall be construed in accordance with section 11(4) of the Medical Act 1983;

"armed forces GP" means a medical practitioner, who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the United Kingdom Armed Forces of Her Majesty;

["assessment panel" means the panel appointed by the Board under paragraph 34(3) of Schedule 5;]

"bank holiday" means any day that is specified or proclaimed as a bank holiday [in England and Wales] pursuant to section 1 of the Banking and Financial Dealings Act 1971;

["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);]

["the Board" means the National Health Service Commissioning Board;

"CCG" means a clinical commissioning group;]

"CCT" means Certificate of Completion of Training awarded under [section 34L(1) of the Medical Act 1983]. . .;

"charity trustee" means one of the persons having the general control and management of the administration of a charity;

"chemist" means--

- (a) a registered pharmacist,
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968, or
- (c) a supplier of appliances,

who is included in the list of [the Board] or a Local Health Board under section 42 of the Act, or who provides local pharmaceutical services in accordance with LPS arrangements;

"child" means a person who has not attained the age of 16 years;

["chiroprapist or podiatrist independent prescriber" means a chiroprapist 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 chiroprapist or podiatrist is qualified to order drugs, medicines and appliances as a chiroprapist or podiatrist independent prescriber;]

"closed", in relation to the contractor's list of patients, means closed to applications for inclusion in the list of patients other than from immediate family members of registered patients;

["contractor" means a person or persons other than the Board who is a party, or are parties, to the agreement;]

"contractor's leaflet" means a leaflet drawn up in accordance with paragraph 72 of Schedule 5;

"contractor's list of patients" means the list prepared and maintained by [the Board] under paragraph 13 of Schedule 5 and references to the contractor having a list of patients shall be interpreted accordingly;

"contractor's practice area" means the area specified in the agreement as the area in which essential services are to be provided;

"contractor's premises" means an address specified in the agreement as one at which services are to be provided under the agreement;

"core hours" means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;

["dispenser" means a chemist, medical practitioner or contractor whom a patient wishes to dispense his electronic prescriptions;]

"dispensing services" means the provision of drugs, medicines or appliances that may be provided as pharmaceutical services by a medical practitioner in accordance with arrangements made under [section 126 (arrangements for pharmaceutical services) and section 129 (regulations as to pharmaceutical services) of the 2006 Act];

["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;]

["electronic communication" has the same meaning as in section 15 of the Electronic Communications Act 2000;

"electronic prescription" means an electronic prescription form or an electronic repeatable prescription;

"electronic prescription form" means a prescription form which falls within paragraph (b) of the definition of "prescription form";

["Electronic Prescription Service" means the service of that name which is operated by the Health and Social Care Information Centre;]

"electronic repeatable prescription" means a prescription which falls within paragraph (a)(ii) of the definition of "repeatable prescription";]

"essential services" means the services described in regulation 15(3), (5), (6) and (8) of the General Medical Services Contracts Regulations;

[. . .]

. . .

. . .

["general medical practitioner" means, except where the context otherwise requires, a medical practitioner whose name is included in the General Practitioner Register kept by the General Medical Council;]

"General Medical Services Contracts Regulations" means the National Health Services (General Medical Services Contracts) Regulations 2004;

. . .

["GP Registrar" means a medical practitioner who is being trained in general practice by a general medical practitioner who is approved under section 34I of the Medical Act 1983 for the purpose of providing training under that section, whether as part of training leading to a CCT or otherwise;]

. . .

"Health and Social Services Board" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972;

"Health and Social Services Trust" means a Health and Social Services Trust established under the Health and Personal Social Services (Northern Ireland) Order 1991;

"Health Board" means a Health Board established under the National Health Service (Scotland) Act 1978;

"health care professional" has the same meaning as in section 28M of the Act (persons eligible to enter into GDS contracts) and "health care profession" shall be construed accordingly;

"health service body" has, unless the context otherwise requires, the meaning given to it in section 4(2) of the 1990 Act;

["home oxygen order form" means a form provided by [the Board] and issued by a health care professional to authorise a person to supply home oxygen services to a patient requiring oxygen therapy at home;

"home oxygen services" means any of the following forms of oxygen therapy or supply--

- (a) ambulatory oxygen supply,
- (b) urgent supply,



- (c) hospital discharge supply,
- (d) long term oxygen therapy, and
- (e) short burst oxygen therapy;]

"immediate family member" means--

- (a) a spouse [or civil partner],
- (b) a person (whether or not of the opposite sex) whose relationship with the registered patient has the characteristics of the relationship between husband and wife,
- (c) a parent or step parent,
- (d) a son,
- (e) a daughter,
- (f) a child of whom the registered patient is--
  - (i) the guardian, or
  - (ii) the carer duly authorised by a local authority to whose care the child has been committed under the Children Act 1989, or
- (g) a grandparent;

"independent nurse prescriber" means a person--

- (a) who is either engaged or employed by the contractor or is a party to the agreement,
- (b) who is registered in the Nursing and Midwifery Register, and
- [(c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber];

"licensing authority" shall be construed in accordance with section 6(3) of the Medicines Act 1968;

"licensing body" means any body that licenses or regulates any profession;

["listed medicine" means a medicine mentioned in regulation 7C(1) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000;

"listed medicines voucher" means a form provided by [the Board] for use for the purpose of ordering a listed medicine;]

["Local Medical Committee" means a committee recognised by the Board under section 97 of the 2006 Act;]

...

"medical card" means a card issued by [the Board], Local Health Board, Health Authority, Health Board or Health and Social Services Board to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services;

...

["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;]

"Medical Register" means the registers kept under section 2 of the Medical Act 1983;

...

"national disqualification" means--

- (a) a decision made by the [First-tier Tribunal] under section 49N of the Act (national disqualification) [or under regulations corresponding to that section made under section 28X(4) of the Act (persons performing primary medical and dental services)],
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of the Act, or
- (c) a decision by the NHS Tribunal which [was treated as a national disqualification by the Family Health Services Appeal Authority] by virtue of regulation 6(4)(b) of the Abolition of the Tribunal Regulations or regulation 6(4)(b) of the Abolition of the Tribunal (Wales) Regulations;

[. . .]

"NHS trust" in relation to Scotland means a NHS trust established under the National Health Service (Scotland) Act 1978;

"NHS contract" has the meaning assigned to it in section 4 of the 1990 Act;

"the NHS dispute resolution procedure" means the procedure for resolution of disputes specified--

- (a) in paragraphs 95 and 96 of Schedule 5, or
- (b) in a case to which paragraph 35 of Schedule 5 applies, in that paragraph;

"the NHS Tribunal" means the Tribunal constituted under section 46 of the Act for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001 and in relation to Wales only until 26th August 2002;

["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;]

"non-electronic prescription form" means a prescription form which falls within paragraph (a) of the definition of "prescription form";]

["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;]

"normal hours" means, except in Schedule 6, those days and hours on which and the times at which services under the agreement are normally made available and may be different for different services;

[. . .]

"Nursing and Midwifery Register" means the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;

"open", in relation to a contractor's list of patients, means open to applications from patients in accordance with paragraph 14 of Schedule 5;

["optometrist independent prescriber" means a person--

- (a) who is registered in the register of optometrists maintained under section 7(a) of the Opticians Act 1989; and
- (b) against whose name is recorded in that register an annotation signifying that the person is qualified to order drugs, medicines and appliances as an optometrist independent prescriber;]

"out of hours period" means--

- (a) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day,
- (b) the period between 6.30pm on Friday and 8am on the following Monday, and
- (c) Good Friday, Christmas Day and bank holidays,

and "part" of an out of hours period means any part of any one or more of the periods described in paragraphs (a) to (c);

"out of hours services" means services required to be provided in all or part of the out of hours period which would be essential services if provided [by a contractor to its registered patients] in core hours;

"parent" includes, in relation to any child, any adult who, in the opinion of the contractor, is for the time being discharging in respect of that child the obligations normally attaching to a parent in respect of his child;

"patient" means--

- (a) a registered patient,
- (b) a temporary resident,
- (c) persons to whom the contractor is required to provide immediately necessary treatment as part of its obligation to provide essential services, and
- (d) any other person to whom the contractor has agreed to provide services under the agreement;

["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;]

[. . .]

. . .

. . .

["pharmacist independent prescriber" means a person--

- (a) who is either engaged or employed by the contractor or is party to the agreement,
- (b) who is registered in [Part 1 of the register maintained under article 19 of the Pharmacy Order 2010] or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976, and
- (c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;]

["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;]

. . .

["practice" means the business operated by the contractor for the purpose of delivering services under the agreement;]

["practice premises" means the address specified in the agreement as one at which services are to be provided under the agreement;]

["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;]

["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--
  - (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;]

"prescription only medicine" means a medicine referred to in [regulation 5(3) (classification of medicinal products) of the Human Medicines Regulations 2012];

"primary care list" means--

- (a) a list of persons performing primary medical [services, primary ophthalmic services] or dental services prepared in accordance with regulations made under section 28X of the Act (persons performing primary medical and dental services),
- (b) a list of persons undertaking to provide general medical services, general dental services, general ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under sections 29 (arrangements and regulations for general medical

services), 36 (arrangements for general dental services), 39 (regulations as to section 38), 42 (regulations as to pharmaceutical services) or 43 (persons authorised to provide pharmaceutical services) of the Act,

(c) a list of persons approved for the purposes of assisting in the provision of any such services mentioned in paragraph (b) prepared in accordance with regulations made under section 43D of the Act (supplementary lists),

(d) a services list referred to in section 8ZA of the National Health Service (Primary Care) Act 1997 (lists of persons who may perform personal medical services or personal dental services),

(e) a list corresponding to a services list prepared by virtue of regulations made under section 41 of the Health and Social Care Act 2001 (corresponding provision and application of enactments), or

(f) a list corresponding to any of the above lists in Scotland or Northern Ireland;

["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;]

"primary carer" means, in relation to an adult, the adult or organisation primarily caring for him;

["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;]

["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;]

"relevant register" means--

(a) in relation to a nurse, the Nursing and Midwifery Register, . . .

(b) in relation to a pharmacist, [Part 1 of the register maintained under article 19 of the Pharmacy Order 2010] or the register maintained in pursuance of articles 6 (the registers) and 9 (the registrar) of the Pharmacy (Northern Ireland) Order 1976;

[(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;]

["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;]

"repeat dispensing services" means pharmaceutical services or local pharmaceutical services which involve the provision of drugs, medicines or appliances by a chemist in accordance with a repeatable prescription;

["repeatable prescriber" means a prescriber who is--

- (a) engaged or employed by a contractor which provides repeatable prescribing services under the terms of its agreement which give effect to paragraph 39 of Schedule 5, or
- (b) a party to an agreement under which such services are provided;]

"repeatable prescribing services" means services which involve the prescribing of drugs, medicines or appliances on a repeatable prescription;

["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;]

"restricted availability appliance" means an appliance which is approved for particular categories of persons or particular purposes only;

"Scheduled drug" means--

- (a) a drug, medicine or other substance specified in any directions given by the Secretary of State under section 28U of the Act (GMS contracts: prescription of drugs etc) as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under a general medical services contract, or
- (b) except where the conditions in paragraph 41(2) of Schedule 5 are satisfied, a drug, medicine or other substance which is specified in any directions given by the Secretary of State under section 28U of the Act as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes;

"Strategic Health Authority" means, except where the context otherwise requires, the Strategic Health Authority which is a party, or prospective party, to an agreement;

"supplementary prescriber" means a person--

- (a) who is either engaged or employed by the contractor or is a party to the agreement,
- (b) whose name is registered in--
  - (i) the Nursing and Midwifery Register,
  - [(ii) Part 1 of the register maintained under article 19 of the Pharmacy Order 2010,]
  - (iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976, . . .
  - [(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the [Health and Social Work Professions Order 2001] relating to--
    - (aa) chiropodists and podiatrists;
    - (bb) physiotherapists; or
    - (cc) radiographers: diagnostic or therapeutic,] [or]
  - [(v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989, and]
- (c) against whose name is recorded in the relevant register an annotation [or entry] signifying that he is qualified to order drugs, medicines and appliances as a supplementary prescriber [or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber];

"temporary resident" means a person accepted by the contractor as a temporary resident under paragraph 15 of Schedule 5 and for whom the contractor's responsibility has not been terminated in accordance with that paragraph;

. . .

"working day" means any day apart from Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and

"writing", except in paragraph 98(1) of Schedule 5 and unless the context otherwise requires, includes electronic mail and "written" should be construed accordingly.

(2) In these Regulations, the use of the term "it" in relation to a contractor shall be deemed to include a reference to a contractor which is an individual or two or more persons contracting together to provide services under an agreement and related expressions shall be construed accordingly.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

## **Amendment**

Definition "the 2006 Act" inserted by SI 2012/970, reg 9(a).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Definition "the 2003 Order" (omitted) revoked by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (2)(a).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

Definition "advanced electronic signature" inserted by SI 2005/893, reg 6(1), (2).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "assessment panel" substituted by SI 2013/363, regs 30, 31(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "bank holiday" words "in England and Wales" in square brackets inserted by SI 2005/893, reg 6(1), (3).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "batch issue" substituted by SI 2013/363, regs 30, 31(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definitions "the Board" and "CCG" inserted by SI 2013/363, regs 30, 31(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "CCT" words "section 34L(1) of the Medical Act 1983" in square brackets substituted by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (2)(b).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

In definition "CCT" words omitted revoked by SI 2007/3491, reg 5(b).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

In definition "chemist" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 31(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "chiroprapist or podiatrist independent prescriber" inserted by SI 2013/363, regs 30, 31(e).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "contractor" substituted by SI 2013/363, regs 30, 31(f).



Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "contractor's list of patients" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 31(g).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "dispenser" inserted by SI 2005/893, reg 6(1), (5).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

In definition "dispensing services" words from "section 126 (arrangements" to "of the 2006 Act" in square brackets substituted by SI 2013/363, regs 30, 31(h).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "Drug Tariff" substituted by SI 2013/363, regs 30, 31(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definitions "electronic communication", "electronic prescription", "electronic prescription form" and "electronic repeatable prescription" inserted by SI 2005/893, reg 6(1), (8).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "Electronic Prescription Service" inserted by SI 2013/363, regs 30, 31(j).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "ETP service" (omitted) inserted by SI 2005/893, reg 6(1), (9).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "ETP service" (omitted) revoked by SI 2013/363, regs 30, 31(l).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "FHSA" (omitted) revoked by SI 2010/578, reg 7(a).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Definition "FHSA (SHA)" (omitted) revoked by SI 2005/893, reg 6(1), (10).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "general medical practitioner" substituted by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (2)(c).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

Definition "General Practitioner Register" (omitted) revoked by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (2)(a).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

Definition "GP Registrar" substituted by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (2)(c).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

Definition "GP Trainer" (omitted) revoked by SI 2004/2694, reg 6(1), (3).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Definitions "home oxygen order form" and "home oxygen services" inserted by SI 2007/3491, reg 5(c).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

In definition "home oxygen order form" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 31(m).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "immediate family member" in para (a) words "or civil partner" in square brackets inserted by SI 2005/3315, reg 8(1), (3).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

In definition "independent nurse prescriber" para (c) substituted by SI 2006/1501, reg 4(a).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

Definitions "listed medicine" and "listed medicines voucher" inserted by SI 2009/2230, reg 4(a).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

In definition "listed medicines voucher" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 31(n).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "Local Medical Committee" substituted by SI 2013/363, regs 30, 31(o).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "local pharmaceutical services" (omitted) revoked by SI 2013/363, regs 30, 31(p).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "medical card" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 31(q).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "medical officer" (omitted) revoked by SI 2010/578, reg 7(a).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Definition "medical performers list" substituted by SI 2013/363, regs 30, 31(r).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "NCAA" (omitted) revoked by SI 2005/893, reg 6(1), (10).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

In definition "national disqualification" in para (a) words "First-tier Tribunal" in square brackets substituted by SI 2010/22, art 5(2), Sch 3, paras 59, 60.

Date in force: 18 January 2010: see SI 2010/22, art 1(1); for transitional provisions and savings see art 5(4), Sch 5 thereto.

In definition "national disqualification" in para (a) words from "or under regulations" to "medical and dental services)" in square brackets inserted by SI 2005/3491, reg 12(1), (9).

Date in force: 1 April 2006: see SI 2005/3491, reg 1(1).

In definition "national disqualification" in para (c) words "was treated as a national disqualification by the Family Health Services Appeal Authority" in square brackets substituted by SI 2010/578, reg 7(b).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Definitions "NHS Care Record" and "NHS Care Record Service" (omitted) inserted by SI 2005/893, reg 6(1), (11).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definitions ""NHS Care Record" and "NHS Care Record Service" (omitted) revoked by SI 2013/363, regs 30, 31(s).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definitions "nominated dispenser", "non-electronic prescription form" and "non-electronic repeatable prescription" inserted by SI 2005/893, reg 6(1), (12).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "nominated dispenser" substituted by SI 2013/363, regs 30, 31(t).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "non-electronic repeatable prescription" substituted by SI 2013/363, regs 30, 31(u).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "NPSA" (omitted) inserted by SI 2005/893, reg 6(1), (13).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "NPSA" (omitted) revoked by SI 2013/363, regs 30, 31(v).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "optometrist independent prescriber" inserted by SI 2009/2205, reg 36(a).

Date in force: 17 September 2009: see SI 2009/2205, reg 1(1).

In definition "out of hours services" words "by a contractor to its registered patients" in square brackets inserted by SI 2004/2694, reg 6(1), (4).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Definition "Patient Choice Extension Scheme" inserted by SI 2013/363, regs 30, 31(w).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "Patient Choice Scheme" (omitted) inserted by SI 2012/970, reg 9(c).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Definition "Patient Choice Scheme" (omitted) revoked by SI 2014/465, reg 9(a).

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Definition "Patients' Forum" (omitted) revoked by SI 2008/528, reg 19, Schedule, para 7(1), (2).

Date in force: 1 April 2008: see SI 2008/528, reg 1(2).

Definition "Pharmaceutical Regulations" (omitted) revoked by SI 2013/363, regs 30, 31(x).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "pharmacist independent prescriber" inserted by SI 2006/1501, reg 4(b).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

In definition "pharmacist independent prescriber" in para (b) words "Part 1 of the register maintained under article 19 of the Pharmacy Order 2010" in square brackets substituted by SI 2010/231, art 68, Sch 4, Pt 2, para 42(a).

Date in force: 27 September 2010: see SI 2010/1621, art 2(1), Schedule.

Definition "physiotherapist independent prescriber" inserted by SI 2013/363, regs 30, 31(y).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "the POM Order" (omitted) revoked by SI 2012/1916, reg 348, Sch 34, Pt 5, para 87(1), (2)(a).

Date in force: 14 August 2012: see SI 2012/1916, reg 1(2).

Definition "practice" inserted by SI 2014/465, reg 9(b).

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Definition "practice premises" inserted by SI 2014/465, reg 9(b).

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Definition "prescriber" substituted by SI 2013/363, regs 30, 31(z).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "prescription form" substituted by SI 2013/363, regs 30, 31(aa).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "prescription only medicine" words "regulation 5(3) (classification of medicinal products) of the Human Medicines Regulations 2012" in square brackets substituted by SI 2012/1916, reg 348, Sch 34, Pt 5, para 87(1), (2)(b).

Date in force: 14 August 2012: see SI 2012/1916, reg 1(2).

In definition "primary care list" in para (a) words "services, primary ophthalmic services" in square brackets inserted by SI 2008/1700, reg 18, Sch 1, para 13.

Date in force: 1 August 2008: see SI 2008/1700, reg 1(1).

Definition "Primary Care Trust" substituted by SI 2013/363, regs 30, 31(bb).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "registered patient" substituted by SI 2013/363, regs 30, 31(cc).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "relevant body" substituted by SI 2013/363, regs 30, 31(dd).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "relevant register" in para (a) word omitted revoked by SI 2013/363, regs 30, 31(ee)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "relevant register" in para (b) words "Part 1 of the register maintained under article 19 of the Pharmacy Order 2010" in square brackets substituted by SI 2010/231, art 68, Sch 4, Pt 2, para 42(b).

Date in force: 27 September 2010: see SI 2010/1621, art 2(1), Schedule.

In definition "relevant register" paras (c), (d) inserted by SI 2013/363, regs 30, 31(ee)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "relevant Strategic Health Authority" substituted by SI 2013/363, regs 30, 31(ff).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Definition "repeatable prescriber" inserted by SI 2005/893, reg 6(1), (16).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Definition "repeatable prescription" substituted by SI 2013/363, regs 30, 31(gg).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In definition "supplementary prescriber" para (b)(ii) substituted by SI 2010/231, art 68, Sch 4, Pt 2, para 42(c).

Date in force: 27 September 2010: see SI 2010/1621, art 2(1), Schedule.

In definition "supplementary prescriber" in para (b)(iii) word omitted revoked by SI 2005/3315, reg 8(1), (5)(a).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

In definition "supplementary prescriber" para (b)(iv) inserted by SI 2005/893, reg 6(1), (18)(c).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para (1): in definition "supplementary prescriber" in para (b)(iv) words "Health and Social Work Professions Order 2001" in square brackets substituted by SI 2012/1479, art 11, Schedule, Pt 1, para 38(1), (2).

Date in force: 1 August 2012: see SI 2012/1479, art 1(2).

In definition "supplementary prescriber" in para (b)(iv)(cc) word "or" in square brackets substituted by SI 2005/3315, reg 8(1), (5)(b).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

In definition "supplementary prescriber" para (b)(v) inserted by SI 2005/3315, reg 8(1), (5)(c).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

In definition "supplementary prescriber" in para (c) words "or entry" in square brackets inserted by SI 2005/3315, reg 8(1), (5)(d).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

In definition "supplementary prescriber" in para (c) words "or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber" in square brackets inserted by SI 2006/1501, reg 4(d).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

Definition "walk-in centre" (omitted) revoked by SI 2013/363, regs 30, 31(hh).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 2 Agreements/[3]

## **Part 2**

### **Agreements**

**[Conditions: introductory]**

#### **NOTES**

##### **Amendment**

Substituted by SI 2013/363, regs 30, 32.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

**[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.]

#### **NOTES**

##### **Extent**

These Regulations apply to England only: see reg 1(2).

##### **Amendment**

Substituted by SI 2013/363, regs 30, 32.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

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**NOTES**

**Amendment**

Revoked by SI 2004/2694, reg 8.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

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...

**NOTES**

**Amendment**

Revoked by SI 2004/2694, reg 8.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

**Document information**

National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 2 Agreements/5

**General condition relating to all agreements**

5

(1) [The Board] may make an agreement with an individual falling within section 28D(1)(b) to (d) only if that individual does not fall within paragraph (3).



(2) [The Board] may make an agreement with a qualifying body only if--

- (a) the qualifying body;
- (b) any person [both] legally and beneficially owning a share in the qualifying body; and
- (c) any director or secretary of the qualifying body,

does not fall within paragraph (3).

(3) A person falls within this paragraph if--

- (a) he or it (in the case of a qualifying body), is the subject of a national disqualification;
- (b) subject to paragraph (4), he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;
- (c) within the period of five years prior to the signing of the agreement or commencement of the agreement, whichever is the earlier, he has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless he has subsequently been employed by that health service body or another health service body and paragraph (5) applies to him or that dismissal was the subject of a finding of unfair dismissal by any competent tribunal or court;
- (d) within the period of five years prior to signing the agreement or commencement of the agreement, whichever is the earlier, he or it has been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 49F(2), (3) and (4) of the Act respectively) unless his name has subsequently been included in such a list;
- (e) he has been convicted in the United Kingdom of murder;
- (f) he has been convicted in the United Kingdom of a criminal offence [other than murder], committed on or after 1st April 2002, and has been sentenced to a term of imprisonment of over six months;
- (g) subject to paragraph (6) he has been convicted elsewhere of an offence--
  - (i) which would, if committed in England and Wales, constitute murder, [or]
  - (ii) committed on or after 3rd November 2003 which would, if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (h) he has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933 (offences against children and young persons with respect to which special provisions of the Act apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1995 (offences against children under the age of 17 years to which special provisions apply) committed on or after 1st April 2004;
- (i) he or it has--
  - (i) been adjudged bankrupt or had sequestration of his estate awarded [or a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986) applies in relation to him] unless . . . he has been discharged [from the bankruptcy or the sequestration] or the bankruptcy order has been annulled,
  - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 [or Schedule 2A to the Insolvency (Northern Ireland) Order 1989] [unless that order has ceased to have effect or has been annulled],
  - [(iia) been made the subject of a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 unless that order has ceased to have effect or has been annulled, or]

(iii) made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it, or

(iv) . . .

[(ia) an administrator, administrative receiver or receiver is appointed in respect of it;]

(j) [within the period of five years prior to signing the agreement or commencement of the agreement, whichever is the earlier,] he has been--

(i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated, or

(ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities) [or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session)], from being concerned in the management or control of any body; or

(k) he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

(4) A person shall not fall within paragraph (3)(b) where the relevant body is satisfied that the disqualification or suspension from practising is imposed by a licensing body outside the United Kingdom and it does not make the person unsuitable to be--

(a) a party to an agreement; or

(b) in the case of an agreement with a qualifying body--

(i) a person legally and beneficially owning a share in the qualifying body, or

(ii) a director or secretary of the qualifying body,

as the case may be.

(5) Where a person has been employed as a member of a health care profession any subsequent employment must also be as a member of that profession.

(6) A person shall not fall within paragraph (3)(g) where the relevant body is satisfied that the conviction does not make the person unsuitable to be--

(a) a party to an agreement;

(b) in the case of an agreement with a qualifying body--

(i) a person [both] legally and beneficially owning a share in the qualifying body, or

(ii) a director or secretary of the qualifying body,

as the case may be.

[(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.]

## NOTES

## **Initial Commencement**

### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

## **Extent**

These Regulations apply to England only: see reg 1(2).

## **Amendment**

Para (1): words "The Board" in square brackets substituted by SI 2013/363, regs 30, 33(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): words "The Board" in square brackets substituted by SI 2013/363, regs 30, 33(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): in sub-para (b) word "both" in square brackets inserted by SI 2013/363, regs 30, 33(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (3): in sub-para (f) words "other than murder" in square brackets inserted by SI 2004/2694, reg 9(a).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (3): in sub-para (g)(i) word "or" in square brackets inserted by SI 2004/2694, reg 9(b).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (3): in sub-para (i)(i) words from "or a moratorium period" to "relation to him" in square brackets inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (2)(a)(i).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para (3): in sub-para (i)(i) words omitted revoked by SI 2012/2404, art 3(3), Sch 3, para 33(1), (2)(a)(ii).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para (3): in sub-para (i)(i) words "from the bankruptcy or the sequestration" in square brackets inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (2)(a)(iii).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para (3): in sub-para (i)(ii) words "or Schedule 2A to the Insolvency (Northern Ireland) Order 1989" in square brackets inserted by SI 2007/3491, reg 6.

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para (3): in sub-para (i)(ii) words "unless that order has ceased to have effect or has been annulled" in square brackets inserted by SI 2004/2694, reg 9(c).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (3): sub-para (i)(iia) inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (2)(c).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para (3): sub-para (i)(iv) revoked by SI 2004/2694, reg 9(d).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (3): sub-para (ia) inserted by SI 2004/2694, reg 9(e).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (3): in sub-para (j) words from "within the period" to "is the earlier" in square brackets inserted by SI 2005/3315, reg 9.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

Para (3): in sub-para (j)(ii) words from "or under section" to "Court of Session)" in square brackets inserted by SI 2010/578, reg 8.

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para (6): in sub-para (b)(i) word "both" in square brackets inserted by SI 2013/363, regs 30, 33(c)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (7): inserted by SI 2013/363, regs 30, 33(e).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 2 Agreements/6

**Reasons**

6

(1) Where [the Board] is of the view that the conditions in regulation . . . 5 for making an agreement are not met it shall notify in writing the person or persons intending to make the agreement of its view and the reasons for that view and of his, its or their right of appeal under regulation 7.

(2) [The Board] shall also notify in writing of its view and the reasons for that view any person [both] legally and beneficially owning a share in, or a director or secretary of, a qualifying body that is notified under paragraph (1) where its reason for the decision relates to that person or those persons.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (1): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 34(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (1): words omitted revoked by SI 2004/2694, reg 10.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (2): words "The Board" in square brackets substituted by SI 2013/363, regs 30, 34(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): word "both" in square brackets inserted by SI 2013/363, regs 30, 34(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 2 Agreements/7

### Appeal

7

A person who has been served with a notice under regulation 6(1) may appeal to the [First-tier Tribunal] against the decision of [the Board] that the conditions in regulation . . . 5 are not met . . .

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Words "First-tier Tribunal" in square brackets substituted by SI 2010/22, art 5(2), Sch 3, paras 59, 61(a).

Date in force: 18 January 2010: see SI 2010/22, art 1(1); for transitional provisions and savings see art 5(4), Sch 5 thereto.

Words "the Board" in square brackets substituted by SI 2013/363, regs 30, 35.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Words omitted revoked by SI 2004/2694, reg 11.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Words omitted revoked by SI 2010/22, art 5(2), Sch 3, paras 59, 61(b).

Date in force: 18 January 2010: see SI 2010/22, art 1(1); for transitional provisions and savings see art 5(4), Sch 5 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 3 Pre-agreement Dispute Resolution/8

## Part 3

### Pre-agreement Dispute Resolution

#### Pre-agreement disputes

(1) Except where both parties to the prospective agreement are health service bodies (in which case section 4(4) of the 1990 Act applies), if, in the course of negotiations intending to lead to an agreement, the prospective parties to that agreement are unable to agree on a particular term of the agreement, either party may refer the dispute to the Secretary of State to consider and determine the matter.

(2) Disputes referred to the Secretary of State in accordance with paragraph (1) or section 4(4) of the 1990 Act shall be considered and determined in accordance with the provisions of paragraphs 95(3) to (14) and 96(1) of Schedule 5, and paragraph (3) (where it applies) of this regulation.

(3) In the case of a dispute referred to the Secretary of State under paragraph (1), the determination--

- (a) may specify terms to be included in the proposed agreement;
- (b) may require [the Board] to proceed with the proposed agreement, but may not require the proposed contractor to proceed with the proposed agreement; and
- (c) shall be binding upon the prospective parties to the agreement.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (3): in sub-para (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 36.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

#### **Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 4 Health Service Body Status/9

## Part 4

### Health Service Body Status

#### Health service body status

#### 9

(1) A contractor shall be regarded as a health service body for the purposes of section 4 of the 1990 Act from the date that it makes an agreement unless--

- (a) in the case of an agreement with a single individual or qualifying body, that individual or body; or
- (b) in the case of any other agreement, any of the proposed parties to the agreement (other than [the Board]),

objects in a written notice served on [the Board] at any time prior to the agreement being made.

(2) Where a contractor is to be regarded as a health service body for the purposes of section 4 of the 1990 Act pursuant to paragraph (1), any change in the parties comprising the contractor shall not affect the health service body status of the contractor.

(3) If, pursuant to paragraph (1) or (4) a contractor is to be regarded as a health service body, that fact shall not affect the nature of, or any rights or liabilities arising under, any other agreement or contract with a health service body entered into by that contractor before the date on which the contractor is to be so regarded.

(4) A contractor may at any time request a variation of the agreement to include provision or remove provision from the agreement that the agreement is an NHS contract, and if it does so--

- (a) [the Board] shall agree to the variation; and
- (b) the procedure in paragraph 98(1) of Schedule 5 shall apply.

(5) If, pursuant to paragraph (4), [the Board] agrees to the variation of the agreement so as to remove provision from the agreement that the agreement is an NHS contract, the contractor shall, subject to paragraph [(8)], cease to be regarded as a health service body for the purposes of section 4 of the 1990 Act from the date that variation is to take effect.

(6) If, pursuant to paragraph (4), [the Board] agrees to the variation of the agreement so as to include a provision in the agreement that the agreement is an NHS contract, the contractor shall be regarded as a health service body for the purposes of section 4 of the 1990 Act from the date that the variation takes effect.

(7) Subject to paragraph (8), a party or parties who were to be regarded as a health service body pursuant to paragraph (1) or (4), as the case may be, shall cease to be a health service body for the purposes of section 4 of the 1990 Act if the agreement terminates.

(8) Where a contractor ceases to be a health service body pursuant to--

- (a) paragraph (5) or (7), it shall continue to be regarded as a health service body for the purposes of being a party to any other NHS contracts entered into after it became a health service body but before the date on which it ceased to be a health service body (for which purpose it ceases to be such a body on the termination of that NHS contract);
- (b) paragraph (5), it shall, if it or [the Board] has referred any matter to the NHS dispute resolution procedure before it ceases to be a health service body, be bound by the determination of the adjudicator as if the dispute had been referred pursuant to paragraph 94 of Schedule 5; or
- (c) paragraph (7), it shall continue to be regarded as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced--
  - (i) before the termination of the agreement, or
  - (ii) after the termination of the agreement, whether in connection with or arising out of the termination of the agreement or otherwise,

until the conclusion of that procedure.

## NOTES



## Initial Commencement

### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

## Extent

These Regulations apply to England only: see reg 1(2).

## Amendment

Para (1): words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 37.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (4): in sub-para (a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 37.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (5): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 37.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (5): reference to "(8)" in square brackets substituted by SI 2004/2694, reg 12.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (6): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 37.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (8): in sub-para (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 37.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/10

**Part 5**

**Agreements: Required Terms**

**Health service contract****10**

If the contractor is to be regarded as a health service body, the agreement must state that the agreement is an NHS contract.

**NOTES****Initial Commencement***Specified date*

Specified date: 1 April 2004: see reg 1(1).

**Extent**

These Regulations apply to England only: see reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/11

**Agreements: general****11**

(1) An agreement must specify--

- (a) the services to be provided;
- (b) subject to paragraph (2), the address of each of the premises to be used by the contractor or any sub-contractor for the provision of such services;
- (c) to whom such services are to be provided;
- (d) where the agreement requires the contractor to provide essential services, the area as respects which persons resident in it will, subject to any other terms of the agreement relating to patient registration, be entitled to--
  - (i) register with the contractor, or
  - (ii) seek acceptance by the contractor as a temporary resident; and
- (e) subject to paragraph (4), where the agreement requires the contractor to provide essential services, whether, at the date on which the agreement comes into force, the contractor's list of patients is open or closed.

[(1A) An agreement--

(a) may also specify an area, other than the area referred to in paragraph (1)(d), which is to be known as the outer boundary area as respect which a patient--

- (i) who moves into that outer boundary area to reside; and
- (ii) who wishes to remain on the contractor's list of patients,

may remain on that list if the contractor so agrees, notwithstanding that the patient no longer resides in the area referred to in paragraph (1)(d); and

(b) which specifies an outer boundary must specify that where a patient remains on the contractor's list of patients as a consequence of sub-paragraph (a) the outer boundary area is to be treated as part of the contractor's practice area for the purposes of the application of any other terms and conditions of the agreement in respect of that patient.]

(2) The premises referred to in paragraph (1)(b) do not include--

- (a) the homes of patients; or
- (b) any other premises where services are provided on an emergency basis.

(3) ...

(4) ...

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (1A): inserted by SI 2012/970, reg 10(1), (2).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para (3): revoked by SI 2012/970, reg 10(1), (3).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para (4): revoked by SI 2013/363, regs 30, 38.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[11A]

**[Membership of a CCG]**

**NOTES**

**Amendment**

Inserted by SI 2013/363, regs 30, 39.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

**[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.]

**NOTES**

**Extent**

These Regulations apply to England only: see reg 1(2).

**Amendment**

Inserted by SI 2013/363, regs 30, 39.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/12

**Certificates**

**12**

- (1) An agreement which requires the contractor to provide essential services must contain a term which has the effect of requiring the contractor to issue free of charge to a patient or his personal representatives

any medical certificate of a description prescribed in column 1 of Schedule 2, which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of that Schedule, except where, for the condition to which the certificate relates, the patient--

- (a) is being attended by a medical practitioner who is not--
  - (i) employed or engaged by the contractor,
  - (ii) a party to the agreement, or
  - (iii) a shareholder in a qualifying body which is a party to the agreement; or
- (b) is not being treated by or under the supervision of a health care professional.

[(2) The exception in paragraph (1)(a) does not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976 (evidence of incapacity for work, limited capability for work and confinement) or regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985 (medical information).]

## NOTES

### Initial Commencement

*Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (2): substituted by SI 2010/578, reg 9.

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/13

### Finance

#### 13

(1) Subject to paragraph (2), the agreement must contain a term which has the effect of requiring [payments to be made] under the agreement promptly and in accordance with both the terms of the agreement and any other terms based on which the payment is made and any other conditions relating to the payment contained in directions given by the Secretary of State [under section 94(4) (regulations about sec-

tion 92 arrangements) and section 98A (exercise of functions) of the 2006 Act] (Secretary of State's directions: exercise of functions) or 28E(3A) of the Act.

(2) The obligation referred to in paragraph (1) is subject to any right [the Board] may have to set off against any amount payable to the contractor under the agreement any amount--

- (a) that is owed by the contractor to [the Board] under the agreement; or
- (b) that [the Board] may withhold from the contractor in accordance with the terms of the agreement or any other applicable provisions contained in directions given by the Secretary of State under [section 94(4) and section 98A of the 2006 Act].

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (1): words "payments to be made" in square brackets substituted by SI 2005/3315, reg 10.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

Para (1): words from "under section 94(4)" to "the 2006 Act" in square brackets substituted by SI 2013/363, regs 30, 40(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 40(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): words "section 94(4) and section 98A of the 2006 Act" in square brackets substituted by SI 2013/363, regs 30, 40(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[14]

**[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.]

## **NOTES**

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Substituted by SI 2013/363, regs 30, 41.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/15

### **Fees and charges**

#### **15**

(1) The agreement must contain terms relating to fees and charges which have the same effect as those set out in paragraphs (2) to (4).

(2) The contractor shall not, either itself or through any other person, demand or accept from any patient of its a fee or other remuneration, for its own or another's benefit, for--

- (a) the provision of any treatment whether under the agreement or otherwise; or
- (b) any prescription or repeatable prescription for any drug[, medicine] or appliance,

except in the circumstances set out in Schedule 3.

(3) Where a person applies to a contractor for the provision of services and claims to be entitled to be treated by the contractor without paying a fee or other remuneration, and the contractor has reasonable doubts about that person's claim, the contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee accordingly in accordance with paragraph (e) of Schedule 3, subject to the provision for repayment contained in paragraph (4).

(4) Where a person from whom a contractor received a fee under paragraph (e) of Schedule 3 applies to [the Board] for a refund within 14 days of payment of the fee (or such longer period not exceeding a month as [the Board] may allow if it is satisfied that the failure to apply within 14 days was reasonable)

and [the Board] is satisfied that the person was entitled to be treated by the contractor without paying a fee or other remuneration when the treatment was given, [the Board] may recover the amount of the fee from the contractor, by set off or otherwise, and shall pay that amount to the person who paid the fee.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (2): in sub-para (b) word ", medicine" in square brackets inserted by SI 2004/2694, reg 13.

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para (4): words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 42.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/16

### Opt outs of out of hours services

#### 16

(1) Where--

- (a) an agreement which is made before 1st October 2004 with a contractor (other than a Primary Care Trust) requires the contractor to provide out of hours services pursuant to regulation 20; and
- (b) the contractor has contracted to provide out of hours services only to patients which it is required to provide essential services to under the agreement,

the agreement must contain terms relating to the procedure for opting out of those services which have the same effect as those specified in paragraphs 1 to 3 of Schedule 4 . . . .

(2) Where--



- (a) an agreement which is made on or after 1st October 2004 with a contractor . . . requires the contractor to provide out of hours services pursuant to regulation 20; and
- (b) the contractor has contracted to provide out of hours services only to patients which it is required to provide essential services to under the agreement,

the agreement must contain terms relating to the procedure for opting out of those services which have the same effect as those specified in paragraphs 1 and 3 of Schedule 4 . . .

(3) . . .

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para (1): words omitted revoked by SI 2013/363, regs 30, 43(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): in sub-para (a) words omitted revoked by SI 2013/363, regs 30, 43(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): words omitted revoked by SI 2013/363, regs 30, 43(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (3): revoked by SI 2013/363, regs 30, 43(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/17

### Consequences of termination

17

An agreement shall make suitable provision for arrangements on termination of an agreement, including the consequences (whether financial or otherwise) of the agreement ending, subject to any specific requirements in these Regulations.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

#### **Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[18]

### **[Other contractual terms]**

## NOTES

### Amendment

Substituted by SI 2013/363, regs 30, 44.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

### **[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.]

## NOTES

### Extent

These Regulations apply to England only: see reg 1(2).

**Amendment**

Substituted by SI 2013/363, regs 30, 44.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[18A . . .]

[. . .]

**NOTES**

**Amendment**

Inserted by SI 2012/970, reg 11.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Revoked by SI 2013/363, regs 30, 45.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

**[18A . . .]**

[. . .]

**NOTES**

**Amendment**

Inserted by SI 2012/970, reg 11.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Revoked by SI 2013/363, regs 30, 45.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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## National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[18B]

**[Registered patients from outside practice area: variation of contractual terms]****NOTES****Amendment**

Regulations 18B, 18C substituted, for reg 18B, by SI 2014/465, reg 10.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

**[18B]**

[(1) A contractor may, on or after 1st October 2014, accept onto its list of patients a person who resides outside of the area referred to in regulation 11(1)(d) (the contractor's "practice area").

(2) Subject to paragraphs (4) and (5), the terms of the contractor's agreement specified in paragraph (3) must be varied so as to require the contractor to provide to the person any services which the contractor is required to provide to its registered patients under the agreement as if the person resided within the contractor's practice area.

(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; and
- (c) the terms which give effect to the following provisions of 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) Where the contractor is required to provide services to a patient in accordance with arrangements made under paragraph (1), the agreement must also be varied so as to include terms which have the effect of releasing the contractor and the Board from all obligations, rights and liabilities relating to the terms specified in paragraph (3) (including any right to enforce those terms) where, in the opinion of the contractor, it is not clinically appropriate or practical under those arrangements--

- (a) to provide the services or access to services in accordance with those terms; or
- (b) to comply with those terms.

(5) The agreement must also include a term which has the effect of requiring the contractor to notify a person in writing, where the contractor is minded to accept that person on its list of patients in accordance with arrangements made under paragraph (1), that the contractor is under no obligation to provide--

- (a) essential services, and any other service in core hours, if, 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; or
- (b) out of hours services if, at the time treatment is required, it is not clinically appropriate or practical to provide such services given the particular circumstances of the patient.]

## **NOTES**

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Inserted by SI 2013/363, regs 30, 45.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Regulations 18B, 18C substituted, for reg 18B, by SI 2014/465, reg 10.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 5 Agreements: Required Terms/[18C]

**[Saving in respect of the Patient Choice Extension Scheme]**

## **NOTES**

### **Amendment**

Regulations 18B, 18C substituted, for reg 18B, by SI 2014/465, reg 10.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

### **[18C]**

[(1) Where, before 1st April 2014--

- (a) a patient is included in a contractor's registered list of patients pursuant to arrangements entered into by the contractor and the Board under the Patient Choice Extension Scheme; and
- (b) the terms of the contractor's agreement were varied pursuant to the provisions of regulation 18B as it had effect immediately before that date,

the patient may remain registered with the contractor's practice and any variation to the contractor's agreement which exempts the contractor's practice from obligations or liabilities under those arrangements continues to operate for such period as the patient remains so registered.

(2) Paragraph (6) of regulation 18B, as it had effect immediately before 1st April 2014, continues to have effect in relation to an agreement where, before that date, a contractor entered into arrangements with the Board under the Patient Choice Extension Scheme.]

## NOTES

### Amendment

Regulations 18B, 18C substituted, for reg 18B, by SI 2014/465, reg 10.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 6 Right to a General Medical Services Contract/19

## Part 6

### Right to a General Medical Services Contract

#### Right to a general medical services contract

#### 19

(1) A contractor which is providing essential services and which wishes a general medical services contract to be entered into pursuant to this regulation shall notify [the Board] in writing at least three months before the date on which it wishes the general medical services contract to be entered into.

(2) A notice under paragraph (1) shall--

(a) state that the contractor wishes to terminate the agreement and the date on which the contractor wishes the agreement to terminate which must be at least three months after the date of service of the notice;

(b) subject to paragraph (3), give the name or names of the person or persons whom the contractor wishes [the Board] to enter into a general medical services contract with; and

(c) confirm that the person or persons so named meet the conditions set out in section 28S of the Act (persons eligible to enter into GMS contracts) and regulations 4 and 5 of the General Medical Services Contracts Regulations or, where the contractor is not able so to confirm, the reason why it is not able to do so and confirmation that the person or persons immediately prior to entering into the general medical services contract will meet those conditions.

(3) A person's name may only be given in a notice referred to in paragraph (1) if that person is a party to the agreement.

(4) [The Board] shall acknowledge receipt of the notice served under paragraph (1) within the period of 7 days beginning on the day that it received the notice.

(5) Provided that the conditions set out in section 28S of the Act and regulations 4 and 5 of the General Medical Services Contracts Regulations are met, [the Board] shall enter into a general medical services contract with the person or persons named in the notice served under paragraph (1).

(6) In addition to the terms required by the Act and the General Medical Services Contracts Regulations, a general medical services contract entered into pursuant to this regulation shall provide for--

- (a) the general medical services contract to commence immediately after the termination of the agreement;
- (b) the names of the patients included in the contractor's list of patients immediately before the termination of the agreement to be included in the first list of patients to be prepared and maintained by [the Board] pursuant to paragraph 14 of Schedule 6 to the General Medical Services Contracts Regulations;
- (c) the same services to be provided under the general medical services contract as were provided under the agreement immediately before it was terminated unless the parties otherwise agree; and
- (d) the opt out of out of hours services referred to in paragraph (7) in accordance with the terms specified in Schedule 3 to the General Medical Services Contracts Regulations.

(7) The out of hours services are the services which the contractor was providing under the agreement pursuant to regulation 20 immediately before its termination and which the general medical services contract continues to require the contractor to provide.

(8) An agreement shall terminate on the date stated in the notice given by the contractor under paragraph (1) unless a different date is agreed by the contractor and [the Board] or no general medical services contract is entered into by [the Board] pursuant to this regulation.

(9) Where there is a dispute as to whether or not a person satisfies the conditions set out in section 28S of the Act or regulation 4 or 5 of the General Medical Services Contracts Regulations, the contractor may appeal to the [First-tier Tribunal] and [the Board] shall be the respondent.

(10) Any other dispute relating to this regulation shall be determined by the Secretary of State in accordance with regulation 9(2) and (3) of the General Medical Services Contracts Regulations.

(11) The parties to a dispute referred to the Secretary of State in accordance with paragraph (10) shall be the contractor and [the Board].

## **NOTES**

### **Initial Commencement**

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Para (1): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (2): in sub-para (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (4): words "The Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (5): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (6): in sub-para (b) words "the Primary Care Trust" in italics revoked and subsequent words in square brackets substituted by SI 2013/363, regs 30, 46(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (8): words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (9): words "First-tier Tribunal" in square brackets substituted by SI 2010/22, art 5(2), Sch 3, paras 59, 62.

Date in force: 18 January 2010: see SI 2010/22, art 1(1); for transitional provisions and savings see art 5(4), Sch 5 thereto.

Para (9): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (11): words "the Board" in square brackets substituted by SI 2013/363, regs 30, 46(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 7 Transitional Provisions/20

**Part 7**



## Transitional Provisions

### Out of hours services

#### 20

Subject to paragraph 8 of Schedule 5, an agreement under which essential services are to be provided before 1st January 2005 (whether or not such services will be provided after that date) must provide for out of hours services to be provided throughout the out of hours period unless--

- (a) the relevant body has accepted in writing, prior to the signing of the agreement, a written request from the contractor that the agreement should not require the contractor to make such provision;
- (b) the contractor has opted out of providing such services in the out of hours period in accordance with paragraph 1 or 2 of Schedule 4; or
- (c) the agreement has been otherwise varied to exclude a requirement to make such provision.

### NOTES

#### Initial Commencement

*Specified date*

Specified date: 1 April 2004: see reg 1(1).

#### Extent

These Regulations apply to England only: see reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Part 7 Transitional Provisions/21

#### 21

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### NOTES

#### Amendment

Revoked by SI 2013/363, regs 30, 47.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
-----------------------------

National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/Signature(s)

Signed by authority of the Secretary of State

*John Hutton*

Minister of State,  
Department of Health  
8th March 2004

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 1 . . . /Part 1 . . .

**SCHEDULE 1**

...

**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

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**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

**Part 1**

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**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

It; . . . >

**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 1 . . . /Part 2 . . .

**Part 2**

. . .

**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

It; . . . >

**NOTES**

**Amendment**

Revoked by SI 2005/3315, reg 12.

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 2 List of Prescribed Medical Certificates

## SCHEDULE 2

### LIST OF PRESCRIBED MEDICAL CERTIFICATES

#### Regulation 12

<i>Description of medical certificate</i>	<i>Short title of enactment under or for the purpose of which certificate required</i>
1 To support a claim or to obtain payment either personally or by proxy; to prove incapacity to work or for self-support for the purposes of an award by the Secretary of State; or to enable proxy to draw pensions etc	Naval and Marine Pay and Pensions Act 1865 Air Force (Constitution) Act 1917 Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 Personal Injuries (Emergency Provisions) Act 1939 Pensions (Mercantile Marine) Act 1942 Polish Resettlement Act 1947 Social Security Administration Act 1992 Social Security Contributions and Benefits Act 1992 Social Security Act 1998
2 To establish pregnancy for the purpose of obtaining welfare foods	Section 13 of the Social Security Act 1988 (schemes for distribution etc of welfare foods)
3 To secure registration of still-birth	Section 11 of the Births and Deaths Registration Act 1953 (special provision as to registration of still-birth)
4 To enable payment to be made to an institution or other person in case of mental disorder of persons entitled to payment from public funds	Section 142 of the Mental Health Act 1983 (pay, pensions etc of mentally disordered persons)
5 To establish unfitness for jury service	Juries Act 1974
6 To support late application for reinstatement in civil employment or notification of non-availability to take up employment owing to sickness	Reserve Forces (Safeguarding of Employment) Act 1985.
7 To enable a person to be registered as an absent voter on grounds of physical incapacity	Representation of the People Act 1983
8 To support applications for certificates conferring exemption from charges in respect of drugs, medicines and appliances	National Health Service Act 1977
9 To support a claim by or on behalf of a severely mentally impaired person for exemption from liability to pay the Council Tax or eligibility for a discount in respect of the amount of Council Tax payable	Local Government Finance Act 1992

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

Document information
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 3 Fees and Charges

### SCHEDULE 3

#### FEES AND CHARGES

#### Regulation 15

The contractor may demand or accept, directly or indirectly, a fee or other remuneration--

- (a) from any statutory body for services rendered for the purposes of that body's statutory functions;
- (b) from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action they might take;
- (c) for treatment which is not primary medical services or otherwise required to be provided under the agreement and which is given--
  - (i) pursuant to the provisions of section 65 of the Act (accommodation and services for private patients), or
  - (ii) in a registered nursing home which is not providing services under that Act,

if, in either case, the person administering the treatment is serving on the staff of a hospital providing services under the Act as a specialist providing treatment of the kind the patient requires and if, within 7 days of giving the treatment, the contractor or the person providing the treatment supplies [the Board], on a form provided by it for the purpose, with such information about the treatment as it may require;

- (d) under section 158 of the Road Traffic Act 1988 (payment for emergency treatment of traffic casualties);
- (e) when it treats a patient under regulation 15(3), in which case it shall be entitled to demand and accept a reasonable fee (recoverable in certain circumstances under regulation 15(4)) for any treatment given, if it gives the patient a receipt;
- (f) for attending and examining (but not otherwise treating) a patient--
  - (i) at his request at a police station in connection with possible criminal proceedings against him,
  - (ii) at the request of a commercial, educational or not for profit organisation for the purpose of creating a medical report or certificate,
  - (iii) for the purpose of creating a medical report required in connection with an actual or potential claim for compensation by the patient;

(g) for treatment consisting of an immunisation for which no remuneration is payable by [the Board] and which is requested in connection with travel abroad;

(h) for prescribing or providing drugs, medicines or appliances (including a collection of such drugs, medicines or appliances in the form of a travel kit) which a patient requires to have in his possession

solely in anticipation of the onset of an ailment or occurrence of an injury while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;

(i) for a medical examination--

(i) to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt, or

(ii) for the purpose of creating a report--

(aa) relating to a road traffic accident or criminal assault; or

(bb) that offers an opinion as to whether a patient is fit to travel;

(j) for testing the sight of a person to whom none of paragraphs (a), (b) or (c) of section 38(1) of the Act (arrangements for general ophthalmic services) applies (including by reason of regulations under section 38(6) of that Act);

[(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]

(l) for prescribing or providing drugs or medicines for malaria chemoprophylaxis.

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

In para (c) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 48(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

In para (g) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 48(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para (k) substituted by SI 2013/363, regs 30, 48(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 4 Opt Outs of Out of Hours Services

#### **SCHEDULE 4**

#### **OPT OUTS OF OUT OF HOURS SERVICES**

#### **Regulation 16**

#### **Opt outs of out of hours services where the opt out notice is served after 30th September 2004 [on or after 1st April 2013]**

**1**

(1) This paragraph applies where a contractor . . . serves an out of hours opt out notice after 30th September 2004 [on or after 1st April 2013].

(2) In this paragraph--

"OOH day" is the day specified by the contractor in its out of hours opt out notice to [the Board] for the commencement of the out of hours opt out;

"B day" is the day six months after the date of service of the out of hours opt out notice; and

"C day" is the day nine months after the date of service of the out of hours opt out notice.

(3) A contractor which falls within regulation 16(1) or (2) and which wishes to terminate its obligation to provide out of hours services shall notify [the Board] in writing to that effect ("an out of hours opt out notice").

(4) An out of hours opt out notice shall specify the date from which the contractor would like the opt out to take effect, which must be either three or six months after the date of service of the out of hours opt out notice.

(5) As soon as is reasonably practicable and in any event within 28 days of receiving the out of hours opt out notice, [the Board] shall approve the notice and specify in accordance with sub-paragraph (6) the date on which the out of hours opt out is to commence ("OOH day"). [The Board] shall notify the contractor of its decision as soon as possible.

(6) The date specified in sub-paragraph (5) shall be the date specified in the out of hours opt out notice.

(7) A contractor may not withdraw an out of hours opt out notice once it has been approved by [the Board] under sub-paragraph (5) without [the Board's] agreement.

(8) Following receipt of the out of hours opt out notice, [the Board] must use its reasonable endeavours to make arrangements for the contractor's registered patients to receive the out of hours services from an alternative provider from OOH day.

(9) The contractor's duty to provide the out of hours services shall terminate on OOH day unless [the Board] serves a notice under sub-paragraph (10) (extending OOH day to B day or C day).

(10) If [the Board] is not successful in finding an alternative provider to take on the provision of the out of hours services from OOH day, then it shall notify the contractor in writing of this fact no later than one month before OOH day, and--

(a) in a case where OOH day is three months after service of the out of hours opt out notice, the contractor shall continue to provide the out of hours services until B day unless at least one month before B

day it receives a notice in writing from [the Board] under sub-paragraph (11) that despite using its reasonable endeavours, it has failed to find an alternative provider to take on the provision of the out of hours services from B day;

(b) in a case where OOH day is six months after the service of the out of hours opt out notice, the contractor shall continue to provide the out of hours services until C day . . .

(11) Where in accordance with sub-paragraph (10)(a) the opt out is to commence on B day and [the Board], despite using its reasonable endeavours has failed to find an alternative provider to take on the provision of the out of hours services from that day, it shall notify the contractor in writing of this fact at least one month before B day, in which case the contractor shall continue to provide the out of hours services until C day . . .

(12) As soon as is reasonably practicable and in any event within 7 days of [the Board] serving a notice under sub-paragraph (11), [the Board] shall enter into discussions with the contractor concerning the support that [the Board] may give to the contractor or other changes which [the Board] or the contractor may make in relation to the provision of the out of hours services until C day.

(13) . . .

(14) . . .

(15) . . .

(16) . . .

(17) . . .

(18) . . .

(19) . . .

(20) . . .

(21) . . .

(22) . . .

(23) . . .

(24) The opt out takes effect at 08.00 on the relevant day unless--

(a) the day is a Saturday, Sunday, Good Friday, Christmas Day, or a bank holiday, in which case the opt out shall take effect on the next working day at 08.00; or

(b) [the Board] and the contractor agree a different day or time.

...

## 2

...

### Informing patients of opt outs

## 3

(1) Prior to any out of hours opt out taking effect, [the Board] and the contractor shall discuss how to inform patients of the proposed opt out.

(2) The contractor shall, if requested by [the Board] inform its registered patients of an opt out and the arrangements made for them to receive the out of hours services by--

(a) placing a notice in the contractor's waiting rooms; or



- (b) including the information in the contractor's practice leaflet

## **NOTES**

### **Initial Commencement**

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Para 1: heading: words "on or after 1st April 2013" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (1) words omitted revoked by SI 2013/363, regs 30, 49(1), (2)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (1) words "on or after 1st April 2013" in square brackets inserted by SI 2013/363, regs 30, 49(1), (2)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (2) in definition "OOH day" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (5) words "the Board" and "The Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (7) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(e)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (7) words "the Board's" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(e)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (8) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (9) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 49(1), (2)(f)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (10)(b) words omitted revoked by SI 2013/363, regs 30, 49(1), (2)(f)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (11) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(g)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (11) words omitted revoked by SI 2013/363, regs 30, 49(1), (2)(g)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (12) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: sub-paras (13)-(23) revoked by SI 2013/363, regs 30, 49(1), (2)(h).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 1: in sub-para (24)(b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (2)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 2: revoked by SI 2013/363, regs 30, 49(1), (3).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 3: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (4).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 4: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 49(1), (4).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**  
08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 1 Provision of Services

## **SCHEDULE 5**

### **OTHER CONTRACTUAL TERMS**

**Regulation 18**

#### **Part 1**

#### **Provision of Services**

#### **Services to registered patients**

**1**

Where the agreement provides for a contractor to provide essential services, the contractor must--

- (a) provide those services and such other services that it is required to provide to those patients, at such times, within core hours, as are appropriate to meet the reasonable needs of its patients; and
- (b) have in place arrangements for its patients to access such services throughout the core hours in case of emergency.

#### **Premises**

**2**

Subject to any plan which is included in the agreement for bringing the contractor's premises up to the required standard, the contractor shall ensure that the premises used for the provision of services under the agreement are--

- (a) suitable for the delivery of those services; and
- (b) sufficient to meet the reasonable needs of the contractor's patients.

**[Telephone services****2A**

(1) The contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by--

- (a) patients to contact the practice for any purpose related to the agreement; or
- (b) any other person to contact the practice in relation to services provided as part of the health service,

starts with the digits 087, 090 or 091 or consists of a personal number, unless the service is provided free to the caller.

(2) In this paragraph, "personal number" means a telephone number which starts with the number 070 followed by a further 8 digits.]

**[Cost of relevant calls****2B**

(1) The contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not pay more to make calls to the practice than they would to make equivalent calls to a geographical number.

(2) Where a contractor is party to an existing contract or other arrangement for a telephone service under which persons making relevant calls to the practice call a number which is not a geographical number, the contractor must comply with sub-paragraph (3).

(3) The contractor must--

- (a) before 1st April 2011, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a geographical number; and
- (b) if the contractor so considers, take all reasonable steps, including in particular considering the matters specified in sub-paragraph (4), to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a geographical number.

(4) The matters referred to in sub-paragraph (3) are--

- (a) varying the terms of the contract or arrangement;
- (b) renegotiating the terms of the contract or arrangement; and
- (c) terminating the contract or arrangement.

(5) If, despite taking all reasonable steps referred to in sub-paragraph (3)(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant

calls to the practice than they would to make equivalent calls to a geographical number, the contractor must consider introducing a system under which if a caller asks to be called back, the contractor will do so at the contractor's expense.

(6) In this paragraph--

- (a) "existing contract or other arrangement" means a contract or arrangement that was entered into prior to 1st April 2010 and which remains in force on 1st April 2010;
- (b) "geographical number" means a number which has a geographical area code as its prefix; and
- (c) "relevant calls" means calls--
  - (i) made by patients to the practice for any reason related to services provided under the agreement, and
  - (ii) made by persons, other than patients, to the practice in relation to services provided as part of the health service.]

### **Attendance at practice premises**

#### **3**

(1) The contractor shall take steps to ensure that any patient who--

- (a) has not previously made an appointment; and
- (b) attends at the contractor's premises during the normal hours for essential services,

is provided with such services by an appropriate health care professional during that surgery period except in the circumstances specified in sub-paragraph (2).

(2) The circumstances referred to in sub-paragraph (1) are that--

- (a) it is more appropriate for the patient to be referred elsewhere for services under the Act; or
- (b) he is then offered an appointment to attend again within a time which is appropriate and reasonable having regard to all the circumstances and his health would not thereby be jeopardised.

### **Attendance outside practice premises**

#### **4**

(1) In the case of a patient whose medical condition is such that in the reasonable opinion of the contractor--

- (a) attendance on the patient is required; and
- (b) it would be inappropriate for him to attend at the contractor's premises,

the contractor shall provide services to that patient at whichever in its judgment is the most appropriate of the places set out in sub-paragraph (2).

(2) The places referred to in sub-paragraph (1) are--

- (a) the place recorded in the patient's medical records as being his last home address;
- (b) such other place as the contractor has informed the patient (and [the Board]) is the place where it has agreed to visit and treat the patient; or
- (c) some other place in the contractor's practice area.

(3) Nothing in this paragraph prevents the contractor from--

- (a) arranging for the referral of a patient without first seeing the patient, in a case where the medical condition of that patient makes that course of action appropriate; or
- (b) visiting the patient in circumstances where this paragraph does not place it under an obligation to do so.

### **Clinical reports**

#### **5**

- (1) Subject to sub-paragraph (4), where the contractor provides any clinical services, other than under a private arrangement, to a patient who is not on its list of patients it shall prepare a clinical report relating to the consultation, and any treatment provided.
- (2) Subject to sub-paragraph (4), the contractor . . . shall as soon as reasonably practicable, provide a copy of the clinical report to [the Board].
- (3) [The Board] shall send any report prepared by it under sub-paragraph (1) or received by it under sub-paragraph (2)--
  - (a) to the person with whom the patient is registered for the provision of essential services (or their equivalent); or
  - [(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) This paragraph does not apply in relation to out of hours services provided by a contractor which is required pursuant to paragraph 9 to comply with the quality standards [or requirements] referred to in that paragraph.

### **Storage of vaccines**

#### **6**

The contractor shall ensure that--

- (a) all vaccines are stored in accordance with the manufacturer's instructions; and
- (b) all refrigerators in which vaccines are stored have a maximum/minimum thermometer and that readings are taken on all working days.

### **Infection control**

#### **7**

The contractor shall ensure that it has appropriate arrangements for infection control and decontamination.

### **Criteria for out of hours services**

#### **8**

Except to the extent that the agreement otherwise provides, a contractor whose agreement includes the provision of out of hours services shall only be required to provide such services if, in the reasonable opinion of the contractor in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait for the services required until the next time at which he could obtain such services during core hours.

### **[Out of hours services: quality standards and monitoring**

## 9

- (1) Sub-paragraph (2) applies to a contractor which--
- (a) provides out of hours services to the registered patients of another contractor or provider of essential services (or their equivalent); or
  - (b) has contracted to provide out of hours services to patients to whom it provides essential services.
- (2) The contractor must, in the provision of those services, meet the quality requirements set out in the document entitled "National Quality Standards in the Delivery of Out of Hours Services" published on 20th July 2006.
- (3) Where a contractor is a provider of essential services but does not provide out of hours services, the contractor must--
- (a) monitor the quality of the out of hours services which are offered or provided to its registered patients having regard to the National Quality Standards referred to in sub-paragraph (2) and record, and act appropriately in relation to, any concerns arising;
  - (b) record any patient feedback received including any complaints; and
  - (c) report to the Board, either at the request of the Board or otherwise, any concerns arising about the quality of the out of hours services which are offered or provided to its registered patients having regard to--
    - (i) any patient feedback received, including any complaints, and
    - (ii) the quality requirements set out in the National Quality Standards referred to in sub-paragraph (2).]

**[Supply of medicines etc by contractors providing out of hours services****9A**

- (1) In this paragraph--

...

"complete course" means the course of treatment appropriate to the patient's condition, being the same as the amount that would have been prescribed if the patient had been seen during core hours;

"necessary drugs, medicines and appliances" means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the contractor, and in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait until such time as he could obtain them during core hours;

"out of hours performer" means a prescriber, a person acting in accordance with a Patient Group Direction or any other health care professional employed or engaged by the contractor who can lawfully supply a drug, medicine or appliance, who is performing out of hours services under the agreement;

"Patient Group Direction" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997; and

"supply form" means a form provided by [the Board] and completed by or on behalf of the contractor for the purpose of recording the provision of drugs, medicines or appliances to a patient during the out of hours period.

- (2) Where a contractor whose agreement includes the provision of out of hours services has agreed with [the Board] that its agreement should also include the supply of necessary drugs, medicines and appliances to patients at the time that it is providing them with out of hours services, the contractor shall comply with the requirements in sub-paragraphs (3) to (5).

- (3) The contractor shall ensure that an out of hours performer--
- (a) only supplies necessary drugs, medicines and appliances;
  - (b) supplies the complete course of the necessary medicine or drug required to treat the patient; and
  - (c) does not supply--
    - (i) drugs, medicines or appliances which he could not lawfully supply,
    - (ii) appliances which are not listed in Part IX of the Drug Tariff,
    - (iii) restricted availability appliances, except where the patient is a person, or it is for a purpose, specified in the Drug Tariff, or
    - (iv) a drug, medicine or other substance listed in Schedule 1 to the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc) Regulations 2004, or a drug, medicine or other substance listed in Schedule 2 to those Regulations other than in the circumstances specified in that Schedule.
- (4) The out of hours performer shall record on a separate supply form for each patient any drugs, medicines or appliances supplied to the patient provided that a single supply form may be completed where the out of hours performer supplies necessary drugs, medicines or appliances to two or more persons in a school or other institution in which at least 20 persons normally reside, when the out of hours performer may write on the supply form the name of the school or institution rather than the name of the individual patient.
- (5) The out of hours performer shall--
- [(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]
  - (b) if no satisfactory evidence is produced to him (and, where it is relevant, none is already available to him as mentioned in paragraph (a)), endorse the supply form to that effect.
- (6) Subject to sub-paragraph (7), nothing in this paragraph shall prevent an out of hours performer supplying a Scheduled drug or a restricted availability appliance in the course of treating a patient under a private arrangement.
- (7) The provisions of regulation 15 (fees and charges) apply in respect of the supply of necessary drugs, medicines and appliances under this paragraph as they apply in respect of prescriptions for drugs, medicines and appliances.]

### **Duty of co-operation**

#### **10**

- (1) A contractor which does not provide to its registered patients or to persons whom it has accepted as temporary residents--
- (a) a particular service; or



- (b) out of hours services, either at all or in respect of some periods or some services,

shall comply with the requirements specified in sub-paragraph (2).

- (2) The requirements referred to in sub-paragraph (1) are that the contractor shall--

- (a) co-operate in so far as is reasonable with any person responsible for the provision of that service or those services;

- (b) comply in core hours with any reasonable request for information from such a person or from [the Board] relating to the provision of that service or those services; and

- [(c) in the case of out of hours services--

- (i) take reasonable steps to ensure that any patient who contacts the practice premises during the out of hours period is provided with information about how to obtain services during that period,

- (ii) ensure that the clinical details of all out of hours consultations received from the out of hours provider are reviewed by a clinician within the practice on the same working day as those details are received by the practice or, exceptionally, on the next working day,

- (iii) ensure that any information requests received from the out of hours provider in respect of any out of hours consultations are responded to by a clinician within the practice on the same day as those requests are received by the practice, or on the next working day,

- (iv) take all reasonable steps to comply with any systems which the out of hours provider has in place to ensure the rapid, secure and effective transmission of patient data in respect of out of hours consultations, and

- (v) agree with the out of hours provider a system for the rapid, secure and effective transmission of information about registered patients who, due to chronic disease or terminal illness, are predicted as more likely to present themselves for treatment during the out of hours period].

- (3) Nothing in this paragraph shall require a contractor whose agreement does not include the provision of out of hours services to make itself available during the out of hours period.

## 11

Where a contractor is to cease to be required to provide to its patients--

- (a) a particular service; or

- (b) out of hours services, either at all or in respect of some periods or some services,

it shall comply with any reasonable request for information relating to the provision of that service or those services made by [the Board or by any person with whom the Board intends to enter into an agreement for the provision of such services].

## NOTES

### Initial Commencement

*Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

## Amendment

Para 2A: inserted by SI 2005/893, reg 8(1), (2); for transitional provisions see reg 15 thereof.

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 2B: inserted by SI 2010/578, reg 10(1), (2).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 4: in sub-para (2)(b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (2).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 5: in sub-para (2) words omitted revoked by SI 2013/363, regs 30, 50(1), (3)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 5: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (3)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 5: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (3)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 5: sub-para (3)(b) substituted by SI 2013/363, regs 30, 50(1), (3)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 5: in sub-para (4) words "or requirements" in square brackets inserted by SI 2004/2694, reg 15(1), (2).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 9: substituted by SI 2014/465, reg 11.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Para 9A: inserted by SI 2005/893, reg 8(1), (3).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 9A: in sub-para (1) definition "the Charges Regulations" (omitted) revoked by SI 2013/363, regs 30, 50(1), (4)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 9A: in sub-para (1) in definition "supply form" words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (4)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 9A: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (4)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 9A: sub-para (5)(a) substituted by SI 2013/363, regs 30, 50(1), (4)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 10: in sub-para (2)(b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (5).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 10: sub-para (2)(c) substituted by SI 2014/465, reg 12.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Para 11: words from "the Board or" to "of such services" in square brackets substituted by SI 2013/363, regs 30, 50(1), (6).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 2 Patients

**Part 2**

**Patients**

**General Provision**

**12**

(1) This Part shall apply to contractors which provide essential services.

(2) . . .

### List of patients

#### 13

Where the agreement requires the contractor to provide essential services, [the Board] shall prepare and keep up to date a list of the patients--

- (a) who have been accepted by the contractor for inclusion in its list of patients under paragraph 14 and who have not subsequently been removed from that list under paragraphs 18 to 26; and
- (b) who have been assigned to the contractor under paragraph 31 or 32 and whose assignment has not subsequently been rescinded.

### [Patients aged 75 and over: accountable GP

#### 13A

- (1) A contractor must ensure that for each of its registered patients aged 75 and over there is assigned an accountable general medical practitioner ("accountable GP").
- (2) The accountable GP must--
  - (a) take lead responsibility for ensuring that any services which the contractor is required to provide under the agreement are, to the extent that their provision is considered necessary to meet the needs of the patient, delivered to the patient;
  - (b) take all reasonable steps to recognise and appropriately respond to the physical and psychological needs of the patient in a timely manner;
  - (c) ensure that the patient receives a health check if, and within a reasonable period after, one has been requested; and
  - (d) work co-operatively with other health and social care professionals who may become involved in the care and treatment of the patient to ensure the delivery of a multi-disciplinary care package designed to meet the needs of the patient.
- (3) The contractor must--
  - (a) inform the patient, in such manner as is considered appropriate by the practice, of the assignment to them of an accountable GP which must state the name and contact details of the accountable GP and the role and responsibilities of the accountable GP in respect of the patient;
  - (b) inform the patient as soon as any circumstances arise in which the accountable GP is not able, for any significant period, to carry out their duties towards the patient; and
  - (c) where the practice considers it to be necessary, assign a replacement accountable GP to the patient and give notice to the patient accordingly.
- (4) The contractor must comply with the requirement in sub-paragraph (3)(a)--
  - (a) in the case of any person who is included in the contractor's list of patients immediately before 1st April 2014 and--
    - (i) is aged 75 or over on or before that date, by 30th June 2014, or
    - (ii) who attains the age of 75 after that date, within 21 days from the date on which that person attained that age; or

(b) in the case of any person aged 75 or over who is accepted by the contractor as a registered patient on or after 1st April 2014, within 21 days from the date on which that person is so accepted.

(5) In this regulation, "health check" means a consultation undertaken by the contractor in the course of which it must make such inquiries and undertake such examinations of the patient as appear to it to be appropriate in all the circumstances.]

### **Application for inclusion in a list of patients**

#### **14**

(1) The contractor may, if its list of patients is open, accept an application for inclusion in its list of patients made by or on behalf of any person whether or not resident in its practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(2) The contractor may, if its list of patients is closed, only accept an application for inclusion in its list of patients from a person who is an immediate family member of a registered patient whether or not resident in its practice area or included, at the time of that application, in the list of patients of another contractor or provider of primary medical services.

(3) Subject to sub-paragraph (4), an application for inclusion in a contractor's list of patients shall be made by delivering to the contractor's premises a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

(4) An application may be made--

(a) on behalf of any child--

(i) by either parent, or in the absence of both parents, the guardian or other adult who has care of the child,

(ii) by a person duly authorised by a local authority to whose care the child has been committed under the Children Act 1989, or

(iii) by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Act; or

[(b) on behalf of any adult who lacks the capacity to make such an application, or to authorise such an application to be made on their behalf, by a relative of that person, the primary carer of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005].

(5) A contractor which accepts an application for inclusion in its list of patients shall notify [the Board] in writing as soon as possible.

(6) On receipt of a notice under sub-paragraph (5), [the Board] shall--

(a) include that person in the contractor's list of patients from the date on which the notice is received; and

(b) notify the applicant (or, in the case of a child or [an adult who lacks capacity], the person making the application on their behalf) of the acceptance.

### **Temporary residents**

#### **15**

(1) The contractor may, if its list of patients is open, accept a person as a temporary resident provided it is satisfied that the person is--

(a) temporarily resident away from his normal place of residence and is not being provided with essential services (or their equivalent) under any other arrangement in the locality where he is temporarily residing; or

(b) moving from place to place and not for the time being resident in any place.

(2) For the purposes of sub-paragraph (1), a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours but not more than three months.

(3) A contractor which wishes to terminate its responsibility for a person accepted as a temporary resident before the end of--

(a) three months; or

(b) such shorter period for which it agreed to accept him as a patient,

shall notify him either orally or in writing and its responsibility for that patient shall cease 7 days after the date on which the notification was given.

(4) At the end of three months, or on such earlier date as its responsibility for the temporary resident has come to an end, the contractor shall notify [the Board] in writing of any person whom it accepted as a temporary resident.

#### **Refusal of applications for inclusion in the list of patients or for acceptance as a temporary resident**

##### **16**

(1) The contractor shall only refuse an application made under paragraph 14 or 15 if it has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition.

[(2) The reasonable grounds referred to in paragraph (1) may, in the case of an application made under paragraph 14, include the ground that the applicant--

(a) does not live in the contractor's practice area; or

(b) lives in the outer boundary area (the area referred to in regulation 11(1A)).]

(3) A contractor which refuses an application made under paragraph 14 or 15 shall, within 14 days of its decision, notify the applicant (or, in the case of a child or [an adult who lacks capacity], the person making the application on their behalf) in writing of the refusal and the reason for it.

(4) The contractor shall keep a written record of refusals of applications made under paragraph 14 and of the reasons for them and shall make this record available to [the Board] on request.

#### **Patient preference of practitioner**

##### **17**

(1) Where the contractor has accepted an application for inclusion in its list of patients, it shall--

(a) notify the patient (or, in the case of a child or [an adult who lacks capacity], the person who made the application on their behalf) of the patient's right to express a preference to receive services from a particular performer or class of performer either generally or in relation to any particular condition; and

(b) record in writing any such preference expressed by or on behalf of the patient.

- (2) The contractor shall endeavour to comply with any reasonable preference expressed under sub-paragraph (1) but need not do so if the preferred performer--
- (a) has reasonable grounds for refusing to provide services to the patient; or
  - (b) does not routinely perform the service in question under the agreement on behalf of the contractor.

### **Removal from the list at the request of the patient**

#### **18**

- (1) The contractor shall notify [the Board] in writing of any request for removal from its list of patients received from a registered patient.
- (2) Where [the Board]--
- (a) receives notification from the contractor under sub-paragraph (1); or
  - (b) receives a request from the patient to be removed from the contractor's list of patients,

it shall remove that person from the contractor's list of patients.

- (3) A removal in accordance with sub-paragraph (2) shall take effect--
- (a) on the date on which [the Board] receives notification of the registration of the person with another provider of essential services (or their equivalent); or
  - (b) 14 days after the date on which the notification or request made under sub-paragraph (1) or (2) respectively is received by [the Board],

whichever is the sooner.

- (4) [The Board] shall, as soon as practicable, notify in writing--
- (a) the patient; and
  - (b) the contractor,

that the patient's name will be or has been removed from the contractor's list of patients on the date referred to in sub-paragraph (3).

- (5) In this paragraph and in paragraphs 19(1)(b) and (9), 20(6) and (7), 22(1), 25(2) and 27(3), a reference to a request received from or advice, information or notification required to be given to a patient shall include a request received from or advice, information or notification required to be given to--
- (a) in the case of a patient who is a child, a parent or other person referred to in paragraph 14(4)(a); or
  - [(b) in the case of an adult patient who lacks the capacity to make the relevant request or receive the relevant advice, information or notification, a relative of that person, the primary carer of that person, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005].

### **Removals from the list at the request of the contractor**

#### **19**

- (1) Subject to paragraph 20, a contractor which has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the [patient's] race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition shall--

- (a) notify [the Board] in writing that it wishes to have the patient removed; and
- (b) subject to sub-paragraph (2), notify the patient of its specific reasons for requesting removal.

(2) Where in the reasonable opinion of the contractor--

- (a) the circumstances of the removal are such that it is not appropriate for a more specific reason to be given; and
- (b) there has been an irrevocable breakdown in the relationship between the patient and the contractor,

the reason given under sub-paragraph (1) may consist of a statement that there has been such a breakdown.

(3) Except in the circumstances specified in sub-paragraph (4), a contractor may only request a removal under sub-paragraph (1), if within the period of 12 months prior to the date of its request to [the Board], it has warned the patient that he is at risk of removal and explained to him the reasons for this.

(4) The circumstances referred to in sub-paragraph (3) are that--

- (a) the reason for removal relates to a change of address;
- (b) the contractor has reasonable grounds for believing that the issue of such a warning would--
  - (i) be harmful to the physical or mental health of the patient, or
  - (ii) put at risk the safety of any party to the agreement who is an individual, any member of the contractor's staff or any other person; or
- (c) it is, in the opinion of the contractor, not reasonable or practical for a warning to be given.

(5) The contractor shall record in writing--

- (a) the date of any warning given in accordance with sub-paragraph (3) and the reasons for giving such a warning as explained to the patient; or
- (b) the reason why no such warning was given.

(6) The contractor shall keep a written record of removals under this paragraph which shall include--

- (a) the reason for removal given to the patient;
- (b) the circumstances of the removal; and
- (c) in cases where sub-paragraph (2) applies, the grounds for a more specific reason not being appropriate,

and shall make this record available to [the Board] on request.

(7) A removal requested in accordance with sub-paragraph (1) shall, subject to sub-paragraph (8), take effect from--

- (a) the date on which [the Board] receives notification of the registration of the person with another provider of essential services (or their equivalent); or
- (b) the eighth day after [the Board] receives the notice referred to in sub-paragraph (1)(a),

whichever is the sooner.



(8) Where, on the date on which the removal would take effect under sub-paragraph (7), the contractor is treating the patient at intervals of less than seven days, the contractor shall notify [the Board] in writing of the fact and the removal shall take effect--

- (a) on the eighth day after [the Board] receives notification from the contractor that the person no longer needs such treatment; or
- (b) on the date on which [the Board] receives notification of the registration of the person with another provider of essential services (or their equivalent),

whichever is the sooner.

(9) [The Board] shall notify in writing--

- (a) the patient; and
- (b) the contractor,

that the patient's name has been or will be removed from the contractor's list of patients on the date referred to in sub-paragraph (7) or (8).

### **Removals from the list of patients who are violent**

#### **20**

(1) A contractor which wishes a patient to be removed from its list of patients with immediate effect on the grounds that--

- (a) the patient has committed an act of violence against any of the persons specified in sub-paragraph (2) or behaved in such a way that any such person has feared for his safety; and
- (b) it has reported the incident to the police,

shall notify [the Board] in accordance with sub-paragraph (3).

(2) The persons referred to in sub-paragraph (1) are--

- (a) any party to the agreement who is an individual;
- (b) any member of the contractor's staff; or
- (c) any other person present--
  - (i) on the contractor's premises, or
  - (ii) in the place where services were provided to the patient under the agreement.

(3) Notification under sub-paragraph (1) may be given by any means including telephone or fax but if not given in writing shall subsequently be confirmed in writing within seven days (and for this purpose a faxed notification is not a written one).

(4) [The Board] shall acknowledge in writing receipt of a request from the contractor under sub-paragraph (1).

(5) A removal requested in accordance with sub-paragraph (1) shall take effect at the time that the contractor--

- (a) makes the telephone call to [the Board]; or
- (b) sends or delivers the notification to [the Board].

(6) Where, pursuant to this paragraph, the contractor has notified [the Board] that it wishes to have a patient removed from its list of patients with immediate effect, it shall inform the patient concerned unless--

- (a) it is not reasonably practicable for it to do so; or
- (b) it has reasonable grounds for believing that to do so would--
  - (i) be harmful to the physical or mental health of the patient, or
  - (ii) put at risk the safety of any party to the agreement who is an individual, a member of the contractor's staff or any other person.

(7) Where [the Board] has removed a patient from the contractor's list of patients in accordance with sub-paragraph (5) it shall give written notice of the removal to that patient.

(8) Where a patient is removed from the contractor's list of patients in accordance with this paragraph, the contractor shall record in the patient's medical records that the patient has been removed under this paragraph and the circumstances leading to his removal.

### **Removals from the list of patients registered elsewhere**

#### **21**

[(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.]

(2) A removal in accordance with sub-paragraph (1) shall take effect--

- (a) on the date on which [the Board] receives notification of the registration of the person with the new provider; or
- (b) with the consent of [the Board], on such other date as has been agreed between the contractor and the new provider.

(3) [The Board] shall notify the contractor in writing of persons removed from its list of patients under sub-paragraph (1).

### **Removals from the list of patients who have moved**

#### **22**

(1) Subject to sub-paragraph (2), where [the Board] is satisfied that a person on the contractor's list of patients has moved and no longer resides in that contractor's practice area, [the Board] shall--

- (a) inform that patient and the contractor that the contractor is no longer obliged to visit and treat him;
- (b) advise the patient in writing either to obtain the contractor's agreement to his continued inclusion in the contractor's list of patients or to apply for registration with another provider of essential services (or their equivalent); and
- (c) inform him that if, after the expiration of 30 days from the date of the advice mentioned in paragraph (b), he has not acted in accordance with the advice and informed it accordingly, [the Board] will remove him from the contractor's list of patients.

(2) If, at the expiration of the period of 30 days referred to in sub-paragraph (1)(c), [the Board] has not been notified of the action taken, it shall remove the patient from the contractor's list of patients and inform him and the contractor accordingly.

## 23

Where the address of a patient who is on the contractor's list of patients is no longer known to [the Board], [the Board] shall--

- (a) give to the contractor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the patient from the contractor's list of patients; and
- (b) at the end of that period, remove the patient from the contractor's list of patients unless, within that period, the contractor satisfies [the Board] that it is still responsible for providing essential services to that patient.

## Removals from the list of patients absent from the United Kingdom etc

### 24

(1) [The Board] shall remove a patient from the contractor's list of patients where it receives notification that that patient--

- (a) intends to be away from the United Kingdom for a period of at least three months;
- (b) is in Her Majesty's Forces;
- (c) is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period;
- (d) has been absent from the United Kingdom for a period of more than three months; or
- (e) has died.

(2) A removal in accordance with sub-paragraph (1) shall take effect--

- (a) in the cases referred to in sub-paragraph (1)(a) to (c) from the date of the departure, enlistment or imprisonment or the date on which [the Board] first receives notification of the departure, enlistment or imprisonment whichever is the later; or
- (b) in the cases referred to in sub-paragraph (1)(d) and (e) from the date on which [the Board] first receives notification of the absence or death.

(3) [The Board] shall notify the contractor in writing of patients removed from its list of patients under sub-paragraph (1).

## Removals from the list of patients accepted elsewhere as temporary residents

### 25

(1) [The Board] shall remove from the contractor's list of patients a patient who has been accepted as a temporary resident by another contractor or other provider of essential services (or their equivalent) where it is satisfied, after due inquiry--

- (a) that the patient's stay in the place of temporary residence has exceeded three months; and
- (b) that he has not returned to his normal place of residence or any other place within the contractor's practice area.

(2) [The Board] shall notify in writing of a removal under sub-paragraph (1)--

- (a) the contractor; and
  - (b) where practicable, the patient.
- (3) A notification to the patient under sub-paragraph (2)(b) shall inform him of--
- (a) his entitlement to make arrangements for the provision to him of essential services (or their equivalent), including by the contractor by which he has been treated as a temporary resident; and
  - (b) [the name, postal and email address of the Board].

### **Removals from a list of pupils etc of a school**

#### **26**

- (1) Where the contractor provides essential services under the agreement to persons on the grounds that they are pupils at or staff or residents of a school, [the Board] shall remove from the contractor's list of patients any such persons who do not appear on particulars of persons who are pupils at or staff or resident of that school provided by that school.
- (2) Where [the Board] has made a request to a school to provide the particulars mentioned in sub-paragraph (1) and has not received them, it shall consult the contractor as to whether it should remove from its list of patients any persons appearing on that list as pupils at, or staff or residents of, that school.
- (3) [The Board] shall notify the contractor in writing of patients removed from its list of patients under sub-paragraph (1).

### **Termination of responsibility for patients not registered with the contractor**

#### **27**

- (1) Where the contractor--
- (a) has received an application for the provision of medical services other than essential services--
    - (i) from a person who is not included in its list of patients,
    - (ii) from a person whom it has not accepted as a temporary resident, or
    - (iii) on behalf of a person mentioned in sub-paragraph (i) or (ii), from one of the persons specified in paragraph 14(4); and
  - (b) has accepted that person as a patient for the provision of the service in question,

its responsibility for that patient shall be terminated in the circumstances referred to in sub-paragraph (2).

- (2) The circumstances referred to in sub-paragraph (1) are--
- (a) the patient informs the contractor that he no longer wishes it to be responsible for provision of the service in question;
  - (b) in cases where the contractor has reasonable grounds for terminating its responsibility which do not relate to the person's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition, the contractor informs the patient that it no longer wishes to be responsible for providing him with the service in question; or
  - (c) it comes to the notice of the contractor that the patient--
    - (i) no longer resides in the area for which the contractor has agreed to provide the service in question, or

- (ii) is no longer included in the list of patients of another contractor to whose registered patients the contractor has agreed to provide that service.
- (3) A contractor which wishes to terminate its responsibility for a patient under sub-paragraph (2)(b) shall notify the patient of the termination and the reason for it.
- (4) The contractor shall keep a written record of terminations under this paragraph and of the reasons for them and shall make this record available to [the Board] on request.
- (5) A termination under sub-paragraph (2)(b) shall take effect--
  - (a) from the date on which the notice is given where the grounds for termination are those specified in paragraph 20(1); or
  - (b) in all other cases, 14 days from the date on which the notice is given.

### **[Application for closure of list of patients**

#### **28A**

- (1) A contractor which wishes to close its list of patients must send a written application ("the Application") to close its list to [the Board] and the Application must include the following details--
  - (a) the options which the contractor has considered, rejected or implemented in an attempt to relieve the difficulties which the contractor has encountered in respect of its open list and, if any of the options were implemented, the level of success in reducing or extinguishing such difficulties;
  - (b) any discussions between the contractor and its patients and a summary of those discussions including whether in the opinion of those patients the list of patients should or should not be closed;
  - (c) any discussions between the contractor and other contractors in the practice area and a summary of the opinion of the other contractors as to whether the list of patients should or should not be closed;
  - (d) the period of time during which the contractor wishes its list of patients to be closed and that period must not be less than 3 months and not more than 12 months;
  - (e) any reasonable support from [the Board] which the contractor considers would enable its list of patients to remain open or would enable the period of proposed closure to be minimised;
  - (f) any plans the contractor may have to alleviate the difficulties mentioned in that Application during the period the list of patients may be closed in order for that list to re-open at the end of the proposed closure period without the existence of those difficulties; and
  - (g) any other information which the contractor considers ought to be drawn to attention of [the Board].
- (2) [The Board] must acknowledge receipt of the Application within a period of 7 days starting on the date the Application was received by [the Board].
- (3) [The Board] must consider the Application and may request such other information from the contractor which it requires to enable it to consider the Application.
- (4) [The Board] must enter into discussions with the contractor concerning--
  - (a) the support which [the Board] may give the contractor; or
  - (b) changes which [the Board] or contractor may make,

to enable the contractor to keep its list of patients open.
- (5) [The Board] and contractor must, throughout the discussions referred to in sub-paragraph (4), use its reasonable endeavours to achieve the aim of keeping the contractor's list of patients open.

(6) [The Board] or the contractor may, at any stage during the discussions, invite the Local Medical Committee for [the area in which the contractor provides services under the agreement] (if any) to attend any meetings arranged between [the Board] and contractor to discuss the Application.

(7) The Primary Care Trust may consult such persons as it appears to the Primary Care Trust as may be affected by the closure of the contractor's list of patients, and if it does so, the Primary Care Trust must provide to the contractor a summary of the views expressed by those consulted in respect of the Application.

(8) The Primary Care Trust must enable the contractor to consider and comment on all the information before the Primary Care Trust makes a decision in respect of the Application.

(9) A contractor may withdraw its Application at any time before the Primary Care Trust makes a decision in respect of that Application.

(10) Within a period of 21 days starting on the date of receipt of the Application (or within such longer period as the parties may agree), the Primary Care Trust must make a decision--

(a) to approve the Application and determine the date the closure is to take effect and the date the list of patients is to re-open; or

(b) to reject the Application.

(11) The Primary Care Trust must notify the contractor of its decision to approve the Application in accordance with paragraph 28B, or in the case where the Application is rejected, in accordance with paragraph 28C.

(12) A contractor must not submit more than one application to close its list of patients in any period of 12 months starting on the date on which the Primary Care Trust makes its decision on the Application unless--

(a) paragraph 28C applies; or

(b) there has been a change in circumstances of the contractor which affects its ability to deliver services under the agreement.

### **Approval of an application to close a list of patients**

#### **28B**

(1) Where [the Board] approves the application to close a list of patients, it must--

(a) notify the contractor of its decision in writing as soon as possible and the notification ("the closure notice") must include the details referred to in sub-paragraph (2); and

(b) at the same time as it notifies the contractor, send a copy of the closure notice to the Local Medical Committee for [the area in which the contractor provides services under the agreement] (if any) and to any person it consulted in accordance with paragraph 28A(7).

(2) The closure notice must include--

(a) the period of time for which the contractor's list of patients will be closed which must be--

(i) the period specified in the application to close the list of patients; or

(ii) in the case where [the Board] and contractor have agreed in writing a different period, that different period,

and in either case, the period must be not less than 3 months and not more than 12 months;

(b) the date from which the closure of the list of patients is to take effect; and

(c) the date from which the list of patients is to re-open.

(3) Subject to paragraph 28E, a contractor must close its list of patients with effect from the date the closure of the list of patients is to take effect and the list of patients must remain closed for the duration of the closure period as specified in the closure notice.

### **Rejection of an application to close a list of patients**

#### **28C**

- (1) Where [the Board] rejects an application to close a list of patients it must--
- (a) notify the contractor of its decision in writing as soon as possible and the notification must include the reasons for the rejection of the application; and
  - (b) at the same time as it notifies the contractor, send a copy of the notification to the Local Medical Committee for [the area in which the contractor provides services under the agreement] (if any) and to any person it consulted in accordance with paragraph 28A(7).
- (2) Subject to sub-paragraph (3), if [the Board] makes a decision to reject a contractor's application to close its list of patients, the contractor must not make a further application until--
- (a) the end of the period of 3 months, starting on the date of the decision of [the Board] to reject; or
  - (b) the end of the period of 3 months, starting on the date of the final determination in respect of a dispute arising from the decision to reject the application made pursuant to the NHS dispute resolution procedure,

whichever is the later.

(3) A contractor may make a further application to close its lists of patient where there has been a change in the circumstances of the contractor which affects its ability to deliver services under the agreement.

### **Application for an extension of a closure period**

#### **28D**

- (1) A contractor may apply to extend a closure period by sending a written application to extend the closure period no later than 8 weeks before the date that period is due to expire.
- (2) The application to extend the closure period must include--
- (a) details of the options the contractor has considered, rejected or implemented in an attempt to relieve the difficulties which have been encountered during the closure period or which may be encountered when the closure period expires;
  - (b) the period of time during which the contractor wishes its list of patients to remain closed, which extended period of desired closure must not be more than 12 months;
  - (c) details of any reasonable support from [the Board] which the contractor considers would enable its list of patients to re-open or would enable the proposed extension of the closure period to be minimised;
  - (d) details of any plans the contractor may have to alleviate the difficulties mentioned in the application to extend the closure period in order for the list of patients to re-open at the end of the proposed extension of the closure period without the existence of those difficulties; and
  - (e) any other information which the contractor considers ought to be drawn to the attention of [the Board].

- (3) [The Board] must acknowledge receipt of the application for an extension of the closure period within a period of 7 days starting on the date the application was received by [the Board].
- (4) [The Board] must consider the application for an extension of the closure period and may request such other information from the contractor which it requires to enable it to consider that application.
- (5) [The Board] may enter into discussions with the contractor concerning--
  - (a) the support which [the Board] may give the contractor; or
  - (b) changes which [the Board] or contractor may make,

to enable the contractor to re-open its list of patients.

(6) Within a period of 14 days starting on the date of receipt of the application to extend the closure period (or within such longer period as the parties may agree), [the Board] must make a decision.

(7) [The Board] must notify the contractor of its decision to approve or reject the application to extend the closure period as soon as possible after making its decision.

(8) Where [the Board] approves the application to extend the closure period, it must--

- (a) notify the contractor of its decision in writing and the notification ("the extended closure notice") shall include the details referred to in sub-paragraph (9); and
- (b) at the same time as it notifies the contractor, send a copy of the extended closure notice to the Local Medical Committee for [the area in which the contractor provides services under the agreement] (if any) and to any person it consulted in accordance with paragraph 28A(7).

(9) The extended closure notice must include--

- (a) the period of time for which the contractor's list of patients will remain closed which must be--
  - (i) the period specified in the application to extend the closure period; or
  - (ii) in the case where [the Board] and contractor have agreed in writing a different period to the period specified in the application to extend the closure period, the period which is agreed,

and in either case, the period ("the extended closure period"), must not be less than 3 months and not more than 12 months;

- (b) the date from which the extended closure period is to take effect; and
- (c) the date on which the list of patients is to re-open.

(10) Where [the Board] rejects an application to extend the closure period it must--

- (a) notify the contractor of its decision in writing and the notification must include the reasons for the rejection of the application; and
- (b) at the same time as it notifies the contractor, send a copy of the notification to the Local Medical Committee for [the area in which the contractor provides services under the agreement] (if any).

(11) Where an application for an extension of the closure period is made in accordance with sub-paragraphs (1) and (2), the list of patients will remain closed pending--

- (a) the determination by [the Board] of the application for an extension of the closure period; or
- (b) the contractor ceasing to pursue any dispute arising from the application for an extension of the closure period pursuant to the NHS dispute resolution procedure (or any court proceedings),



whichever is the later.

**Re-opening of list of patients**

**28E**

The contractor may re-open its list of patients if before the expiry of the closure period [the Board] and the contractor agree that the contractor should re-open its list of patients.]

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**28**

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...

**Assignment of patients to lists: open lists**

**31**

(1) [The Board] may, subject to paragraph 33, assign a new patient to a contractor whose list of patients is open.

[(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.]

**Assignment of patients to lists: closed lists**

**32**

(1) [The Board] may not assign a new patient to a contractor which has closed its list of patients except in the circumstances specified in sub-paragraph (2).

[(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.]

**Factors relevant to assignments**

**[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.]

**Assignments to closed lists: determinations of the assessment panel****[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).]

**Assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel**

**35**

- (1) Where an assessment panel makes a determination under paragraph 34(7) that [the Board] may assign new patients to contractors which have closed their lists of patients, any contractor specified in that determination may refer the matter to the Secretary of State to review the determination of the assessment panel.
- (2) Where a matter is referred to the Secretary of State in accordance with sub-paragraph (1), it shall be reviewed in accordance with the procedure specified in the following sub-paragraphs.
- (3) Where more than one contractor specified in the determination in accordance with paragraph 34(7) wishes to refer the matter for dispute resolution, those contractors may, if they all agree, refer the matter jointly, and in that case the Secretary of State shall review the matter in relation to those contractors together.
- (4) Within the period of 7 days beginning with the date of the determination by the assessment panel in accordance with paragraph 34(7), the contractor (or contractors) shall send to the Secretary of State a written request for dispute resolution which shall include or be accompanied by--
- (a) the names and addresses of the parties to the dispute;
  - (b) a copy of the agreement (or agreements); and
  - (c) a brief statement describing the nature and circumstances of the dispute.

- (5) Within the period of 7 days beginning with the date on which the matter was referred to him, the Secretary of State shall--
- (a) give to the parties notice in writing that he is dealing with the matter; and
  - (b) include with the notice a written request to the parties to make in writing within a specified period any representations which they may wish to make about the dispute.
- (6) The Secretary of State shall give, with the notice given under sub-paragraph (5), to the party other than the one which referred the matter to dispute resolution a copy of any document by which the dispute was referred to dispute resolution.
- (7) The Secretary of State shall, upon receiving any representations from a party, give a copy of them to the other party, and shall in each case request (in writing) a party to which a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.
- (8) For the purpose of assisting it in its consideration of the matter, the Secretary of State may--
- (a) invite representatives of the parties to appear before him to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which he wishes them to give special consideration; or
  - (b) consult other persons whose expertise he considers will assist him in his consideration of the dispute.
- (9) Where the Secretary of State consults another person under sub-paragraph (8)(b), he shall notify the parties accordingly in writing and, where he considers that the interests of any party might be substantially affected by the result of the consultation, he shall give to the parties such opportunity as he considers reasonable in the circumstances to make observations on those results.
- (10) In considering the dispute, the Secretary of State shall consider--
- (a) any written representations made in response to a request under sub-paragraph (5)(b), but only if they are made within the specified period;
  - (b) any written observations made in response to a request under sub-paragraph (7), but only if they are made within the specified period;
  - (c) any oral representations made in response to an invitation under sub-paragraph (8)(a);
  - (d) the results of any consultation under sub-paragraph (8)(b); and
  - (e) any observations made in accordance with an opportunity given under sub-paragraph (9).
- (11) Subject to the other provisions of this paragraph and to any agreement by the parties, the Secretary of State shall have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.
- (12) In this paragraph, "specified period" means such period as the Secretary of State shall specify in the request, being not less than one, nor more than two, weeks beginning with the date on which the notice referred to is given, but the Secretary of State may, if the period for determination of the dispute has been extended in accordance with sub-paragraph (16), extend any such period (even after it has expired) and, where he does so, a reference in this paragraph to the specified period is to the period as so extended.
- (13) Subject to sub-paragraph (16), within the period of 21 days beginning with the date on which the matter was referred to him, the Secretary of State shall determine whether the Primary Care Trust may assign patients to contractors which have closed their lists of patients; and if he determines that the Pri-

mary Care Trust may make such assignments, he shall also determine those contractors to which patients may be assigned.

(14) The Secretary of State may not determine that patients may be assigned to a contractor which was not specified in the determination of the assessment panel under paragraph 34(7).

(15) In the case of a matter referred jointly by contractors in accordance with sub-paragraph (3), the Secretary of State may determine that patients may be assigned to one, some or all of the contractors which referred the matter.

(16) The period of 21 days referred to in sub-paragraph (13) may be extended (even after it has expired) by a further specified number of days if an agreement to that effect is reached by--

- (a) the Secretary of State;
- (b) the Primary Care Trust; and
- (c) the contractor (or contractors) which referred the matter to dispute resolution.

(17) The Secretary of State shall record his determination, and the reasons for it, in writing and shall give notice of the determination (including the record of the reasons) to the parties.

### **Assignments to closed lists: assignments of patients**

#### **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.]

(2) In the discussions referred to in sub-paragraph (1), both parties shall use reasonable endeavours to reach agreement.

(3) The requirement in sub-paragraph (1) to enter into discussions applies--

- (a) to the first assignment of a patient to a particular contractor; and
- (b) to any subsequent assignment to that contractor to the extent that it is reasonable and appropriate having regard to the numbers of patients who have been or may be assigned to it and the period of time since the last discussions under sub-paragraph (1) took place.

### **NOTES**

#### **Initial Commencement**

##### ***Specified date***

Specified date: 1 April 2004: see reg 1(1).

#### **Extent**

These Regulations apply to England only: see reg 1(2).

#### **Amendment**

Para 12: sub-para (2) revoked by SI 2013/363, regs 30, 50(1), (7).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 13: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (8).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 13A: inserted by SI 2014/465, reg 13.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Para 14: sub-para (4)(b) substituted by SI 2007/3491, reg 7(a)(i).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 14: in sub-para (5) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (9).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 14: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (9).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 14: in sub-para (6)(b) words "an adult who lacks capacity" in square brackets substituted by SI 2007/3491, reg 7(a)(ii).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 15: in sub-para (4) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (10).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 16: sub-para (2) substituted by SI 2012/970, reg 12(1), (2).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 16: in sub-para (3) words "an adult who lacks capacity" in square brackets substituted by SI 2007/3491, reg 7(b).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 16: in sub-para (4) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (11).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 17: in sub-para (1)(a) words "an adult who lacks capacity" in square brackets substituted by SI 2007/3491, reg 7(c).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 18: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (12).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 18: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (12).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 18: in sub-para (3)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (12).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 18: in sub-para (4) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (12).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 18: sub-para (5)(b) substituted by SI 2007/3491, reg 7(d).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 19: in sub-para (1) word "patient's" in square brackets substituted by SI 2010/578, reg 10(1), (4).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 19: in sub-para (1)(a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 19: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 19: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 19: in sub-para (7)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 19: in sub-para (8) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 19: in sub-para (9) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (13).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 20: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (14).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 20: in sub-para (4) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (14).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 20: in sub-para (5)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (14).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 20: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (14).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 20: in sub-para (7) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (14).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 21: sub-para (1) substituted by SI 2013/363, regs 30, 50(1), (15)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 21: in sub-para (2)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (15)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.



Para 21: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (15)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 22: in sub-para (1) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (16).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 22: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (16).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 23: words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (16).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 24: in sub-para (1) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (17).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 24: in sub-para (2)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (17).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 24: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (17).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 25: in sub-para (1) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (18)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 25: in sub-para (2) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (18)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 25: sub-para (3)(b) substituted by SI 2013/363, regs 30, 50(1), (18)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 26: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (19).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 26: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (19).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 26: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (19).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 27: in sub-para (4) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (20).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 28A-28E: inserted by SI 2012/970, reg 12(1), (3).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 28A: in sub-para (1) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (21)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (2) words "the Board" and "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (21)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (21)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (4) words "The Board" and "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (21)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (5) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (21)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (6) words "The Board" and "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (21)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28A: in sub-para (6) words "the area in which the contractor provides services under the agreement" in square brackets substituted by SI 2013/363, regs 30, 50(1), (21)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28B: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (22)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28B: in sub-para (1)(b) words "the area in which the contractor provides services under the agreement" in square brackets substituted by SI 2013/363, regs 30, 50(1), (22)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28B: in sub-para (2)(a)(ii) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (22)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28C: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (23)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28C: in sub-para (1)(b) words "the area in which the contractor provides services under the agreement" in square brackets substituted by SI 2013/363, regs 30, 50(1), (23)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28C: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (23)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28C: in sub-para (2)(a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (23)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (2)(c), (e) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (3) words "The Board" and "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (4) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (5) words "The Board" and "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (7) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (8) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (8)(b) words "the area in which the contractor provides services under the agreement" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (9)(a)(ii) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (10) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(c)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (10)(b) words "the area in which the contractor provides services under the agreement" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(c)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28D: in sub-para (11)(a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (24)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28E: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (25).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 28: revoked by SI 2012/970, reg 12(1), (3).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Paras 29, 30: revoked by SI 2012/970, reg 12(1), (4).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 31: in sub-para (1) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (26)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 31: sub-para (2) substituted by SI 2013/363, regs 30, 50(1), (26)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 32: in sub-para (1) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (27)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 32: sub-para (2) substituted by SI 2013/363, regs 30, 50(1), (27)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 33: substituted by SI 2013/363, regs 30, 50(1), (28).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 34: substituted by SI 2013/363, regs 30, 50(1), (29).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 35: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (30).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 36: sub-para (1) substituted by SI 2013/363, regs 30, 50(1), (31).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 3 Prescribing and Dispensing

**Part 3**

**Prescribing and Dispensing**

**Prescribing**

**37**

[(1) The contractor shall ensure that--

(a) any prescription form or repeatable prescription for drugs, medicines or appliances issued or created by a prescriber; . . .

(b) any home oxygen order form issued by a health care [professional; and]

[(c) any listed medicines voucher issued by a prescriber or any other person acting under the contract,]

complies as appropriate with the requirements in paragraphs 38, 38A and 40 to 43.]

(2) For the purposes of this paragraph and paragraphs 38[, 38A] and 40 to 43 in their application to a contractor whose agreement includes the provision of contraceptive services, drugs includes contraceptive substances and appliances includes contraceptive appliances.

### 38

(1) Subject to [sub-paragraph (1A) [and (1B)] and to] paragraphs [41 and 42], a prescriber shall order any drugs, medicines or appliances which are needed for the treatment of any patient who is receiving treatment under the agreement [by--

(a) issuing to that patient a non-electronic prescription form or non-electronic repeatable prescription completed in accordance with sub-paragraph (3); or

(b) where paragraph 38A(1) applies, creating and transmitting an electronic prescription,

and such a non-electronic prescription form, non-electronic repeatable prescription or electronic prescription shall not be used in any other circumstances].

[(1A) A health care professional shall order any home oxygen services which are needed for the treatment of any patient who is receiving treatment under the contract by issuing a home oxygen order form.]

[(1B) During an outbreak of an illness for which a listed medicine may be used for treatment or for prophylaxis, if--

[(a) the Secretary of State or the Board has made arrangements for the distribution of a listed medicine free of charge; and]

(b) that listed medicine is needed for treatment or prophylaxis of any patient who is receiving treatment under the contract,

a prescriber may, or if the patient has not attained the age of 13 years must, order that listed medicine by using a listed medicines voucher, which the prescriber must sign.

(1C) During an outbreak of an illness for which a listed medicine may be used for treatment or for prophylaxis, if--

[(a) the Secretary of State or the Board has made arrangements for the distribution of a listed medicine free of charge;]

(b) those arrangements contain criteria set out in a protocol which enable persons who are not prescribers to identify the symptoms of, and whether there is a need for treatment or prophylaxis of, that disease;

(c) a person acting on behalf of the contractor, who is not a prescriber but who is authorised to order listed medicines by [the Board], has applied the criteria referred to in paragraph (b) to any patient who is receiving treatment under the contract; and

(d) having applied the criteria, the person acting on behalf of the contractor has concluded that the listed medicine is needed for treatment or prophylaxis of that patient,

the person acting on behalf of the contractor must order that listed medicine by using a listed medicines voucher, which the person ordering the listed medicine must sign.]

(2) A prescriber may order drugs, medicines or appliances on a repeatable prescription only where the drugs, medicines or appliances are to be provided more than once.

(3) In issuing any [non-electronic] prescription form or [non-electronic] repeatable prescription the prescriber shall himself sign the prescription form or repeatable prescription in ink with his initials, or fore-names, and surname in his own handwriting and not by means of a stamp and shall so sign only after particulars of the order have been inserted in the prescription form or repeatable prescription, . . .

[(3A) A prescription form or repeatable prescription shall not refer to any previous prescription form or repeatable prescription.

(3B) A separate prescription form or repeatable prescription shall be used for each patient, except where a bulk prescription is issued for a school or institution under paragraph 43.]

[(3C) A home oxygen order form shall be signed by a health care professional.]

(4) Where a prescriber orders the drug buprenorphine [or diazepam] or a drug specified in Schedule 2 to the Misuse of Drugs Regulations 2001 (controlled drugs to which regulations 14, 15, 16, 18, 19, 20, 21, 23, 26 and 27 of those Regulations apply) for supply by instalments for treating addiction to any drug specified in that Schedule, he shall--

- (a) use only the [non-electronic] prescription form provided specially for the purposes of supply by instalments;
- (b) specify the number of instalments to be dispensed and the interval between each instalment; and
- (c) order only such quantity of the drug as will provide treatment for a period not exceeding 14 days.

(5) The [non-electronic] prescription form provided specially for the purpose of supply by instalments shall not be used for any purpose other than ordering drugs in accordance with sub-paragraph (4).

(6) In a case of urgency a prescriber may request a chemist to dispense a drug before a prescription form or repeatable prescription is issued [or created], only if--

- (a) that drug or medicine is not a Scheduled drug;
- (b) that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedules 4 or 5 to the Misuse of Drugs Regulations 2001; and

[(c) he undertakes to--

- (i) furnish the chemist within 72 hours with a non-electronic prescription form or non-electronic repeatable prescription completed in accordance with sub-paragraph (3), or
- (ii) transmit to the [Electronic Prescription Service] within 72 hours an electronic prescription].

(7) In a case of urgency a prescriber may request a chemist to dispense an appliance before a prescription form or repeatable prescription is issued [or created] only if--

- (a) that appliance does not contain a Scheduled drug or a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001;
- (b) in the case of a restricted availability appliance, the patient is a person, or it is for a purpose, specified in the Drug Tariff; and

[(c) he undertakes to--

- (i) furnish the chemist within 72 hours with a non-electronic prescription form or non-electronic repeatable prescription completed in accordance with sub-paragraph (3), or
- (ii) transmit to the [Electronic Prescription Service] within 72 hours an electronic prescription].

## **[Electronic prescriptions**

### **38A**

(1) A prescriber may only order drugs, medicines or appliances by means of an electronic prescription if--



- [(a) the Board authorises the contractor to use the Electronic Prescription Service;]
- (b) the patient to whom the prescription relates has--
  - (i) nominated one or more dispensers . . . ,
  - (ii) confirmed that he intends to use that dispenser (or one of them) for the purposes of obtaining the drugs, medicines or appliances ordered on the electronic prescription in question, and
  - (iii) consents to the use of an electronic prescription on the particular occasion; and
- (c) the prescription is not--
  - (i) for a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001,
  - (ii) for supply by instalments under paragraph 38(4), or
  - (iii) a bulk prescription issued for a school or institution under paragraph 43.

[(1A) A health care professional may not order home oxygen services by means of an electronic prescription.]

(2) In relation to a patient who is a child or [an adult who lacks the capacity to nominate a dispenser], sub-paragraph (1)(b) shall apply as if the reference to the patient to whom the prescription relates included a reference to--

(a) in the case of a child, that patient's parent or other person referred to in paragraph 14(4)(a); or

[(b) in the case of an adult, that patient's relative, primary carer, a donee of a lasting power of attorney granted by that person or a deputy appointed for that person by the court under the provisions of the Mental Capacity Act 2005].

(3) A prescriber who orders drugs, medicines or appliances by means of an electronic prescription shall--

(a) in the case of an electronic repeatable prescription, issue the patient with a form provided by [the Board] for the purpose of recording details of that electronic repeatable prescription and linked to that electronic repeatable prescription by a number contained on the form; and

(b) in the case of an electronic prescription form, issue the patient, if he so requests, with a written record of the prescription which has been created.

### **Nomination of dispensers for the purpose of electronic prescriptions**

#### **38B**

(1) A contractor which [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,]--

(a) where he does not have a nominated dispenser, the dispenser chosen by that patient; and

(b) where he does have a nominated dispenser--

(i) a replacement dispenser, or

(ii) a further dispenser,

chosen by that patient.

- (2) Sub-paragraph (1)(b)(ii) shall not apply if the number of nominated dispensers would thereby exceed the maximum number permitted by the [Electronic Prescription Service].
- (3) Paragraph 14(4) shall apply in relation to requests under sub-paragraph (1) as it applies to applications for inclusion in a list of patients.
- (4) A contractor--
- (a) shall not seek to persuade a patient to nominate a dispenser recommended by the prescriber or the contractor; and
  - (b) shall, if asked by the patient to recommend a chemist whom he might nominate as his dispenser, provide the patient with the list of all the chemists in the area who provide [an Electronic Prescription Service as given to the contractor by the Board].]

### Repeatable prescribing services

#### 39

- (1) The contractor may only provide repeatable prescribing services to any person on its list of patients if it--
- (a) satisfies the conditions in sub-paragraph (2); and
  - [(b) has notified the Board of its intention to provide repeatable prescribing services in accordance with sub-paragraphs (3) and (4)].
- (2) The conditions referred to in sub-paragraph (1)(a) are--
- (a) . . .
  - (b) . . .
  - (c) the contractor has access to computer systems and software which enable it to issue [non-electronic] repeatable prescriptions and batch issues; and
  - (d) the practice premises at which the repeatable prescribing services are to be provided are located [in the Local Authority area] in which there is also located the premises of at least one chemist who has undertaken to provide, or has entered into an arrangement to provide, repeat dispensing services.
- (3) The notification referred to in sub-paragraph (1)(b) is a notification, in writing, by the contractor to the relevant body that it--
- (a) wishes to provide repeatable prescribing services;
  - (b) intends to begin to provide those services from a specified date; and
  - (c) satisfies the conditions in paragraph (2).
- (4) The date specified by the contractor pursuant to sub-paragraph (3)(b) must be at least ten days after the date on which the notification specified in sub-paragraph (1) is given.
- (5) Nothing in this paragraph requires a contractor or prescriber to provide repeatable prescribing services to any person.
- (6) A prescriber may only provide repeatable prescribing services to a person on a particular occasion if--
- (a) that person has agreed to receive such services on that occasion; and
  - (b) the prescriber considers that it is clinically appropriate to provide such services to that person on that occasion.

- (7) The contractor may not provide repeatable prescribing services to any patient of its to whom--
- (a) . . .
  - (b) any of the persons specified in sub-paragraph (8) is authorised or required by [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] to provide pharmaceutical services.
- (8) The persons referred to in sub-paragraph (7) are--
- (a) a medical practitioner who is a party to the agreement;
  - (b) in the case of an agreement with a qualifying body, any medical practitioner who is [both] a legal and beneficial shareholder in that body; or
  - (c) any medical practitioner employed by the contractor.

### Repeatable prescriptions

#### 40

- (1) A prescriber who issues a [non-electronic] repeatable prescription must at the same time issue the appropriate number of batch issues.
- [(2) Where a prescriber wishes to make any change to the type, quantity, strength or dosage of drugs, medicines or appliances ordered on a person's repeatable prescription he must--
- (a) in the case of a non-electronic repeatable prescription--
    - (i) notify the person, and
    - (ii) make reasonable efforts to notify the chemist providing repeat dispensing services to that person,

that the original repeatable prescription should no longer be used to obtain or provide repeat dispensing services and make arrangements for a replacement repeatable prescription to be issued to that person; or
  - (b) in the case of an electronic repeatable prescription--
    - (i) arrange with [the Electronic Prescription Service] for the cancellation of the original repeatable prescription . . ., and
    - (ii) create a replacement electronic repeatable prescription relating to that person and notify him that he has done so.
- (3) A prescriber who has created an electronic repeatable prescription for a person must as soon as practicable arrange with [the Electronic Prescription Service] for its cancellation . . . if, before the expiry of that prescription--
- (a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his electronic repeatable prescription or no longer appropriate or safe for him to continue to receive repeatable prescribing services;
  - (b) he has issued the person with a non-electronic repeatable prescription in place of the electronic repeatable prescription; or
  - (c) it comes to his notice that that person has been removed from the list of patients of the contractor on whose behalf the prescription was issued.

- (4) Where a prescriber has cancelled a person's electronic repeatable prescription in accordance with sub-paragraph (3) he must, as soon as is practicable, notify that person.
- (5) A prescriber who has issued a non-electronic repeatable prescription in respect of a person must, as soon as practicable, make reasonable efforts to notify the chemist that that repeatable prescription should no longer be used to provide repeat dispensing services to that person, if, before the expiry of that repeatable prescription--
- (a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his repeatable prescription or no longer appropriate or safe for him to continue to receive repeatable prescribing services;
  - (b) he issues or creates a further repeatable prescription in respect of the person to replace the original repeatable prescription other than in the circumstances referred to in sub-paragraph (2)(a) (for example, because the person wishes to obtain the drugs, medicines or appliances from a different chemist); or
  - (c) it comes to his notice that that person has been removed from the list of patients of the contractor on whose behalf the prescription was issued.
- (6) Where the circumstances in sub-paragraph (5)(a) to (c) apply, the prescriber must as soon as practicable notify the person on whose behalf the non-electronic repeatable prescription was issued that that repeatable prescription should no longer be used to obtain repeat dispensing services.]

### **Restrictions on prescribing by medical practitioners**

#### **41**

- (1) In the course of treating a patient to whom he is providing treatment under the agreement, a medical practitioner shall not order on [a listed medicines voucher,] a prescription form or repeatable prescription a drug, medicine or other substance specified in any directions given by the Secretary of State under section 28U of the Act (GMS contracts: prescription of drugs etc) as being drugs, medicines or other substances which may not be ordered for patients in the provision of medical services under a general medical services contract but may, subject to regulation 15(2)(b), prescribe such a drug, medicine or other substance for that patient in the course of that treatment under a private arrangement.
- (2) In the course of treating a patient to whom he is providing treatment under the agreement, a medical practitioner shall not order on [a listed medicines voucher,] a prescription form or repeatable prescription a drug, medicine or other substance specified in any directions given by the Secretary of State under section 28U of the Act as being a drug or medicine which can only be ordered for specified patients and specified purposes unless--
- (a) that patient is a person of the specified description;
  - (b) that drug or medicine or other substance is prescribed for that patient only for the specified purpose; and
  - [(c) if the order is on a prescription form, the practitioner includes--
    - (i) the reference SLS, or
    - (ii) if the order is under arrangements made by the Secretary of State or [the Board] for the distribution of a listed medicine free of charge, the reference ACP,]

but may, subject to regulation 15(2)(b), prescribe such a drug for that patient in the course of that treatment under a private arrangement.

(3) In the course of treating a patient to whom he is providing treatment under the agreement, a medical practitioner shall not order on a prescription form or repeatable prescription a restricted availability appliance unless--

- (a) the patient is a person, or it is for a purpose, specified in the Drug Tariff; and
- (b) the practitioner [includes on the prescription form] the reference SLS,

but may, subject to regulation 15(2)(b), prescribe such an appliance for that patient in the course of that treatment under a private arrangement.

(4) In the course of treating a patient to whom he is providing treatment under the agreement, a medical practitioner shall not order on a repeatable prescription a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, but may, subject to regulation 15(2)(b), prescribe such a drug for that patient in the course of that treatment under a private arrangement.

### **Restrictions on prescribing by supplementary prescribers**

#### **42**

(1) The contractor shall have arrangements in place to secure that a supplementary prescriber will--

- (a) [issue or create] a prescription for a prescription only medicine;
- (b) administer a prescription only medicine for parenteral administration; or
- (c) give directions for the administration of a prescription only medicine for parenteral administration,

as a supplementary prescriber only under the conditions set out in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that--

- (a) the person satisfies the applicable conditions set out in [regulation 215 of the Human Medicines Regulations 2012] (prescribing and administration by supplementary prescribers), unless those conditions do not apply by virtue of any of the exemptions set out in the subsequent provisions of [those Regulations];
- (b) . . .
- (c) the drug, medicine or other substance is not specified in any directions given by the Secretary of State under section 28U of the Act as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under a general medical services contract; and
- (d) the drug, medicine or other substance is not specified in any directions given by the Secretary of State under section 28U of the Act as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless--
  - (i) the patient is a person of the specified description,
  - (ii) the medicine is prescribed for that patient only for the specified purposes, and
  - (iii) if the supplementary prescriber is [issuing or creating a] [prescription on a prescription form, the prescriber includes on the form the reference SLS or, in the case of a listed medicine ordered under arrangements made by the Secretary of State or [the Board] for the medicine's distribution free of charge, the reference ACP].

(3) Where the functions of a supplementary prescriber include prescribing, the contractor shall have arrangements in place to secure that that person will only [issue or create] a prescription for--

- (a) an appliance; or

- (b) a medicine which is not a prescription only medicine,

as a supplementary prescriber under the conditions set out in sub-paragraph (4).

- (4) The conditions referred to in sub-paragraph (3) are that--

- (a) the supplementary prescriber acts in accordance with a clinical management plan which is in effect at the time he acts and which contains the following particulars--

- (i) the name of the patient to whom the plan relates,
- (ii) the illness or conditions which may be treated by the supplementary prescriber,
- (iii) the date on which the plan is to take effect, and when it is to be reviewed by the medical practitioner or dentist who is a party to the plan,
- (iv) reference to the class or description of medicines or types of appliances which may be prescribed or administered under the plan,
- (v) any restrictions or limitations as to the strength or dose of any medicine which may be prescribed or administered under the plan, and any period of administration or use of any medicine or appliance which may be prescribed or administered under the plan,
- (vi) relevant warnings about known sensitivities of the patient to, or known difficulties of the patient with, particular medicines or appliances,
- (vii) the arrangements for notification of--
  - (aa) suspected or known adverse reactions to any medicine which may be prescribed or administered under the plan, and suspected or known adverse reactions to any other medicine taken at the same time as any medicine prescribed or administered under the plan; and
  - (bb) incidents occurring with the appliance which might lead, might have led or has led to the death or serious deterioration of state of health of the patient, and

- (viii) the circumstances in which the supplementary prescriber should refer to, or seek the advice of, the medical practitioner or dentist who is a party to the plan;

- (b) he has access to the health records of the patient to whom the plan relates which are used by any medical practitioner or dentist who is a party to the plan;

- (c) . . .

- (d) if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not specified in any directions given by the Secretary of State under section 28U of the Act as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under a general medical services contract;

- (e) if it is a prescription for a drug, medicine or other substance, that drug, medicine or other substance is not specified in any directions given by the Secretary of State under section 28U of the Act as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes unless--

- (i) the patient is a person of the specified description,
- (ii) the medicine is prescribed for that patient only for the specified purposes, and
- (iii) when [issuing or creating the prescription, he includes on the prescription form] the reference SLS;

- (f) . . .

- (g) if it is a prescription for an appliance, the appliance is listed in Part IX of the Drug Tariff; and
- (h) if it is a prescription for a restricted availability appliance--
  - (i) the patient is a person of a description mentioned in the entry in Part IX of the Drug Tariff in respect of that appliance,
  - (ii) the appliance is prescribed only for the purposes specified in respect of that person in that entry, and
  - (iii) when [issuing or creating the prescription, he includes on the prescription form] the reference SLS.

(5) In sub-paragraph (4)(a), "clinical management plan" means a written plan (which may be amended from time to time) relating to the treatment of an individual patient agreed by--

- (a) the patient to whom the plan relates;
- (b) the medical practitioner or dentist who is a party to the plan; and
- (c) any supplementary prescriber who is to prescribe, give directions for administration or administer under the plan.

(6) . . .

### **Bulk prescribing**

#### **43**

- (1) Where--
  - (a) a contractor is responsible under the agreement for the treatment of 10 or more persons in a school or other institution in which at least 20 persons normally reside; and
  - (b) a prescriber orders, for any two or more of those persons for whose treatment the contractor is responsible, drugs, medicines or appliances to which this paragraph applies,

the prescriber may use a single [non-electronic] prescription form for the purpose.

(2) Where a prescriber uses a single [non-electronic] prescription form for the purpose mentioned in sub-paragraph (1)(b), he shall (instead of entering on the form the names of the persons for whom the drugs, medicines or appliances are ordered) enter on the form--

- (a) the name of the school or institution in which those persons reside; and
- (b) the number of persons residing there for whose treatment the contractor is responsible.

(3) This paragraph applies to any drug, medicine or appliance which can be supplied as part of pharmaceutical services or local pharmaceutical services and which--

- (a) in the case of a drug, is not a product of a description or class which is for the time being specified in an order made under section 58(1) of the Medicines Act 1968 (medicinal products on prescription only); or
- (b) in the case of an appliance, does not contain such a product.

### **Excessive prescribing**

#### **44**

(1) The contractor shall not prescribe [drugs, medicines or appliances] whose cost or quantity, in relation to any patient, is, by reason of the character of the drug, medicine or appliance in question in excess of that which was reasonably necessary for the proper treatment of that patient.

[(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.]

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### **Provision of drugs, medicines and appliances for immediate treatment or personal administration**

52

(1) Subject to sub-paragraph (2), a contractor--

(a) shall provide to a patient any drug, medicine or appliance, not being a Scheduled drug, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and

(b) may provide to a patient any drug, medicine or appliance, not being a Scheduled drug, which he personally administers or applies to that patient,

but shall, in either case, provide a restricted availability appliance only if it is for a person or a purpose specified in the Drug Tariff.

(2) Nothing in sub-paragraph (1) authorises a person to supply any drug or medicine to a patient otherwise than in accordance with Part 3 of the Medicines Act 1968 or any regulations or orders made thereunder.

### **NOTES**

#### **Initial Commencement**

##### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

#### **Extent**

These Regulations apply to England only: see reg 1(2).

#### **Amendment**

Para 37: sub-para (1) substituted by SI 2007/3491, reg 7(e).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 37: in sub-para (1)(a) word omitted revoked by SI 2009/2230, reg 4(b)(i).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 37: in sub-para (1)(b) words "professional; and" in square brackets substituted by SI 2009/2230, reg 4(b)(ii).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 37: sub-para (1)(c) inserted by SI 2009/2230, reg 4(b)(iii).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 37: in sub-para (2) reference to ", 38A" in square brackets inserted by SI 2005/893, reg 8(1), (4)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (1) words in square brackets beginning with the words "sub-paragraph (1A)" inserted by SI 2007/3491, reg 7(f)(i).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38: in sub-para (1) word "and (1B)" in square brackets inserted by SI 2009/2230, reg 4(c)(i).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 38: in sub-para (1) words "41 and 42" in square brackets substituted by SI 2004/2694, reg 15(1), (6).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 38: in sub-para (1) words from "by-- (a) issuing to that patient" to "any other circumstances" in square brackets substituted by SI 2005/893, reg 8(1), (5)(a).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: sub-para (1A) inserted by SI 2007/3491, reg 7(f)(ii).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38: sub-paras (1B), (1C) inserted by SI 2009/2230, reg 4(c)(ii).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 38: sub-para (1B)(a) substituted by SI 2013/363, regs 30, 50(1), (32)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38: sub-para (1C)(a) substituted by SI 2013/363, regs 30, 50(1), (32)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38: in sub-para (1C)(c) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (32)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38: in sub-para (3) word "non-electronic" in square brackets in the first place it occurs substituted by SI 2005/893, reg 8(1), (5)(b)(i).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (3) word "non-electronic" in square brackets in the second place it occurs inserted by SI 2005/893, reg 8(1), (5)(b)(ii).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (3) words omitted revoked by SI 2005/893, reg 8(1), (5)(b)(iii).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: sub-paras (3A), (3B) inserted by SI 2005/893, reg 8(1), (5)(c).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: sub-para (3C) inserted by SI 2007/3491, reg 7(f)(iii).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38: in sub-para (4) words "or diazepam" in square brackets inserted by SI 2005/893, reg 8(1), (5)(d)(i).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (4)(a) word "non-electronic" in square brackets inserted by SI 2005/893, reg 8(1), (5)(d)(ii).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (5) word "non-electronic" in square brackets inserted by SI 2005/893, reg 8(1), (5)(e).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-paras (6), (7) words "or created" in square brackets inserted by SI 2005/893, reg 8(1), (5)(f)(i).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: sub-paras (6)(c), (7)(c) substituted by SI 2005/893, reg 8(1), (5)(f)(ii).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38: in sub-para (6)(c)(ii) words "Electronic Prescription Service" in square brackets substituted by SI 2013/363, regs 30, 50(1), (32)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38: in sub-para (7)(c)(ii) words "Electronic Prescription Service" in square brackets substituted by SI 2013/363, regs 30, 50(1), (32)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 38A, 38B: inserted by SI 2005/893, reg 8(1), (6).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 38A: sub-para (1)(a) substituted by SI 2013/363, regs 30, 50(1), (33)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38A: in sub-para (1)(b)(i) words omitted revoked by SI 2013/363, regs 30, 50(1), (33)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38A: sub-para (1A) inserted by SI 2007/3491, reg 7(g)(i).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38A: in sub-para (2) words "an adult who lacks the capacity to nominate a dispenser" in square brackets substituted by SI 2007/3491, reg 7(g)(ii).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38A: sub-para (2)(b) substituted by SI 2007/3491, reg 7(g)(iii).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 38A: in sub-para (3)(a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (33)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38B: in sub-para (1) words from "is authorised to" to "Health and Social Care," in square brackets substituted by SI 2013/363, regs 30, 50(1), (34)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38B: in sub-para (2) words "Electronic Prescription Service" in square brackets substituted by SI 2013/363, regs 30, 50(1), (34)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 38B: in sub-para (4)(b) words "an Electronic Prescription Service as given to the contractor by the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (34)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 39: sub-para (1)(b) substituted by SI 2013/363, regs 30, 50(1), (35)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 39: sub-para (2)(a), (b) revoked by SI 2005/893, reg 8(1), (7)(a)(i).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 39: in sub-para (2)(c) word "non-electronic" in square brackets inserted by SI 2005/893, reg 8(1), (7)(a)(ii).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 39: in sub-para (2)(d) words "in the Local Authority area" in square brackets substituted by SI 2013/363, regs 30, 50(1), (35)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 39: sub-para (7)(a) revoked by SI 2012/1909, reg 104, Sch 8, para 8(1), (4)(a)(i).

Date in force: 1 September 2012: see SI 2012/1909, reg 1; for transitional provisions see reg 103, Sch 7, para 10 thereto.

Para 39: in sub-para (7)(b) words from "the Board in" to "of the 2006 Act" in square brackets substituted by SI 2013/363, regs 30, 50(1), (35)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 39: in sub-para (8)(b) word "both" in square brackets inserted by SI 2013/363, regs 30, 50(1), (35)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 40: in sub-para (1) word "non-electronic" in square brackets inserted by SI 2005/893, reg 8(1), (8)(a).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 40: sub-paras (2)-(6) substituted, for sub-paras (2)-(4) as originally enacted, by SI 2005/893, reg 8(1), (8)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 40: in sub-para (2)(b)(i) words "the Electronic Prescription Service" in square brackets substituted by SI 2013/363, regs 30, 50(1), (36)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 40: in sub-para (2)(b)(i) words omitted revoked by SI 2013/363, regs 30, 50(1), (36)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 40: in sub-para (3) words "the Electronic Prescription Service" in square brackets substituted by SI 2013/363, regs 30, 50(1), (36)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 40: in sub-para (3) words omitted revoked by SI 2013/363, regs 30, 50(1), (36)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 41: in sub-para (1) words "a listed medicines voucher," in square brackets inserted by SI 2009/2230, reg 4(d)(i).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 41: in sub-para (2) words "a listed medicines voucher," in square brackets inserted by SI 2009/2230, reg 4(d)(ii)(aa).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 41: sub-para (2)(c) substituted by SI 2009/2230, reg 4(d)(ii)(bb).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 41: in sub-para (2)(c)(ii) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (37).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 41: in sub-para (3)(b) words "includes on the prescription form" in square brackets substituted by SI 2005/893, reg 8(1), (9)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: in sub-para (1)(a) words "issue or create" in square brackets substituted by SI 2005/893, reg 8(1), (10)(a).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: in sub-para (2)(a) words "regulation 215 of the Human Medicines Regulations 2012" in square brackets substituted by SI 2012/1916, reg 348, Sch 34, Pt 5, para 87(1), (3)(a).

Date in force: 14 August 2012: see SI 2012/1916, reg 1(2).

Para 42: in sub-para (2)(a) words "those Regulations" in square brackets substituted by SI 2012/1916, reg 348, Sch 34, Pt 5, para 87(1), (3)(b).

Date in force: 14 August 2012: see SI 2012/1916, reg 1(2).

Para 42: sub-para (2)(b) revoked by SI 2005/893, reg 8(1), (10)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: in sub-para (2)(d)(iii) words "issuing or creating a" in square brackets substituted by virtue of SI 2005/893, reg 8(1), (10)(c).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: in sub-para (2)(d)(iii) words "prescription on a" to ", the reference ACP" in square brackets substituted by SI 2009/2230, reg 4(e).

Date in force: 21 August 2009: see SI 2009/2230, reg 1(1).

Para 42: in sub-para (2)(d)(iii) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (38).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 42: in sub-para (3) words "issue or create" in square brackets substituted by SI 2005/893, reg 8(1), (10)(d).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: sub-para (4)(c), (f) revoked by SI 2005/893, reg 8(1), (10)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: in sub-para (4)(e)(iii), (h)(iii) words "issuing or creating the prescription, he includes on the prescription form" in square brackets substituted by SI 2005/893, reg 8(1), (10)(e).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 42: sub-para (6) revoked by SI 2005/893, reg 8(1), (10)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 43: in sub-paras (1), (2) word "non-electronic" in square brackets inserted by SI 2005/893, reg 8(1), (11).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 44: in sub-para (1) words "drugs, medicines or appliances" in square brackets substituted by SI 2010/578, reg 10(1), (5).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 44: sub-para (2) substituted by SI 2013/363, regs 30, 50(1), (39).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 45-47, 47A-47E, 48, 48A, 49, 49A, 50, 51: revoked by SI 2012/1909, reg 104, Sch 8, para 8(1), (4)(b).

Date in force: 1 September 2012: see SI 2012/1909, reg 1; for transitional provisions see reg 103, Sch 7, para 10 thereto.

Paras 46, 47, 47A-47E, 48, 48A, 49,: substituted, for paras 46-49 as originally enacted, by SI 2005/3315, reg 13(1), (4).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

Para 49: further substituted by SI 2007/3491, reg 7(i).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 49A: inserted by SI 2007/3491, reg 7(j).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 4 Persons who Perform Services

**Part 4**

**Persons who Perform Services**

**Qualifications of performers**

**53**

- (1) Subject to sub-paragraph (2), no medical practitioner shall perform medical services under the agreement unless he is--
- [(a) included in the medical performers list;]
  - (b) not suspended from that list or from the Medical Register; and
  - (c) not subject to interim suspension under section 41A of the Medical Act 1983 (interim orders).
- (2) Sub-paragraph (1)(a) shall not apply in the case of--
- (a) a medical practitioner employed by (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, (in Scotland) a Health Board, or (in Northern Ireland) a Health and Social Services Trust who is providing services other than primary medical services at the practice premises;
  - (b) a person who is provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) or 21 (provisional registration) of the Medical Act 1983 acting in the course of his employment in a resident medical capacity in an approved medical practice; . . .
  - [(c) a GP Registrar who has applied to [the Board] to have his name included in its medical performers list until the first of the following events arises--
    - (i) [the Board] notifies him of its decision on that application; or]
    - [(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;]
  - [(d) a medical practitioner, who--
    - (i) is not a GP Registrar;
    - (ii) is undertaking a programme of post-registration supervised clinical practice supervised by [the General Medical Council] ("a post-registration programme");



[(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]

(iv) has, with that notification, provided [the Board] with evidence sufficient for it to satisfy itself that he is undertaking a post-registration programme,

but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme].

[(3) . . .]

#### **54**

No health care professional other than one to whom paragraph 53 applies shall perform clinical services under the agreement unless he is appropriately registered with his relevant professional body and his registration is not currently suspended.

#### **55**

Where the registration of a health care professional or, in the case of a medical practitioner, his inclusion in a primary care list, is subject to conditions, the contractor shall ensure compliance with those conditions insofar as they are relevant to the agreement.

#### **56**

No health care professional shall perform any clinical services unless he has such clinical experience and training as are necessary to enable him properly to perform such services.

### **Conditions for employment and engagement**

#### **57**

(1) Subject to sub-paragraphs (2) and (3), a contractor shall not employ or engage a medical practitioner (other than one falling within paragraph 53(2)) unless--

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

(b) the contractor has checked that the practitioner meets the requirements in paragraph 53.

(2) Where the employment or engagement of a medical practitioner is urgently needed and it is not possible for the contractor to check the matters referred to in paragraph 53 in accordance with sub-paragraph (1)(b) before employing or engaging him he may be employed or engaged on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

(3) Where the prospective employee is a GP Registrar, the requirements set out in sub-paragraph (1) shall apply with the modifications that--

[(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]

(b) confirmation that his name appears on that list shall not be required until the end of the first two months of the Registrar's training period.

#### **58**

(1) The contractor shall not employ or engage--

- (a) a health care professional other than one to whom paragraph 53 applies unless the contractor has checked that he meets the requirements in paragraph 54; or
- (b) a health care professional to perform clinical services unless he has taken reasonable steps to satisfy himself that he meets the requirements in paragraph 56.

(2) Where the employment or engagement of a health care professional is urgently needed and it is not possible to check the matters referred to in paragraph 54 in accordance with sub-paragraph (1) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to seven days whilst such checks are undertaken.

(3) When considering a health care professional's experience and training for the purposes of sub-paragraph (1)(b), the contractor shall have regard in particular to--

- (a) any post-graduate or post-registration qualification held by the health care professional; and
- (b) any relevant training undertaken by him and any relevant clinical experience gained by him.

## 59

(1) The contractor shall not employ or engage a health care professional to perform medical services under the agreement[, other than a medical practitioner falling within paragraph 53(2)(d),] unless--

- (a) that person has provided two clinical references, relating to two recent posts (which may include any current post) as a health care professional which lasted for three months without a significant break, or where this is not possible, a full explanation and alternative referees; and
- (b) the contractor has checked and is satisfied with the references.

(2) Where the employment or engagement of a health care professional is urgently needed and it is not possible to obtain and check the references in accordance with sub-paragraph (1)(b) before employing or engaging him, he may be employed or engaged on a temporary basis for a single period of up to fourteen days whilst his references are checked and considered, and for an additional single period of a further seven days if the contractor believes the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(3) Where the contractor employs or engages the same person on more than one occasion within a period of three months, it may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.

## 60

(1) Before employing or engaging any person to assist it in the provision of services under the agreement, the contractor shall take reasonable care to satisfy itself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed or engaged.

(2) The duty imposed by sub-paragraph (1) is in addition to the duties imposed by paragraphs 57 to 59.

(3) When considering the competence and suitability of any person for the purpose of sub-paragraph (1), the contractor shall have regard, in particular, to--

- (a) that person's academic and vocational qualifications;
- (b) his education and training; and
- (c) his previous employment or work experience.

## Training

### 61

The contractor shall ensure that for any health care professional who is--

- (a) performing clinical services under the agreement; or
- (b) employed or engaged to assist in the performance of such services,

there are in place arrangements for the purpose of maintaining and updating his skills and knowledge in relation to the services which he is performing or assisting in performing.

## 62

The contractor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

### Arrangements for GP Registrars

## 63

(1) The contractor shall only employ a GP Registrar . . . subject to the conditions in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that the contractor shall not, by reason only of having employed or engaged a GP Registrar, reduce the total number of hours for which other medical practitioners perform primary medical services under the agreement or for which other staff assist them in the performance of those services.

[(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.]

### Doctors with provisional registration

## 64

A contractor shall not by reason only of having employed or engaged a person who is provisionally registered under section 15, 15A or 21 of the Medical Act and is acting in the course of his employment in a resident medical capacity in an approved medical practice, reduce the total number of hours in which other staff assist in the performance of medical services under the agreement.

### [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.]

(4) The contractor shall provide the following information when it notifies [the Board] in accordance with sub-paragraph (2)--

- (a) the person's full name;
- (b) his professional qualifications;
- (c) his identifying number which appears in the relevant register;
- (d) the date on which his entry in the relevant register was annotated to the effect that he was qualified to order drugs, medicines and appliances for patients;
- (e) the date on which--
  - (i) he was employed or engaged, if applicable,
  - (ii) he became a party to the agreement, if applicable, or
  - (iii) one of his functions became to prescribe.

(5) The contractor shall provide the following information when it notifies [the Board] in accordance with sub-paragraph (3)--

- (a) the person's full name;
- (b) his professional qualifications;
- (c) his identifying number which appears in the relevant register; and
- (d) the date--
  - (i) he ceased to be employed or engaged in its practice,
  - (ii) he ceased to be a party to the agreement,
  - (iii) his functions changed so as no longer to include prescribing, or
  - (iv) on which he was removed or suspended from the relevant register.

## **[Signing of documents**

**66**

- (1) In addition to any other requirements relating to such documents whether in these regulations or otherwise, the contractor shall ensure--
- (a) that the documents specified in sub-paragraph (2) include--
    - (i) the clinical profession of the health care professional who signed the document; and
    - (ii) the name of the contractor on whose behalf it is signed; and
  - (b) that the documents specified in sub-paragraph (3) include the clinical profession of the health care professional who signed the document.
- (2) The documents referred to in sub-paragraph (1)(a) are--
- (a) certificates issued in accordance with regulation 12, unless regulations relating to particular certificates provide otherwise; and
  - [(b) any other clinical documents, apart from--
    - (i) home oxygen order forms, and
    - (ii) those documents specified in sub-paragraph (3)].
- (3) The documents referred to in sub-paragraph (1)(b) are batch issues, prescription forms and repeatable prescriptions.]

**Level of skill****67**

The contractor shall carry out its obligations under the agreement with reasonable care and skill.

**Appraisal and assessment****68**

- (1) The contractor shall ensure that any medical practitioner performing services under the agreement--
- [(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]
  - [(b) co-operates with the Board in relation to the Board's patient safety functions].
- [(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.]

**Sub-contracting of clinical matters****69**

- (1) The contractor shall not sub-contract any of its rights or duties under the agreement in relation to clinical matters unless it has taken reasonable steps to satisfy itself that--
- (a) it is reasonable in all the circumstances;
  - (b) that the person is qualified and competent to provide the service; and

(c) it is satisfied in accordance with paragraph 113 that the sub-contractor holds adequate insurance.

(2) Where the contractor sub-contracts any of its rights or duties under the agreement in relation to clinical matters, it shall--

- (a) inform [the Board] of the sub-contract as soon as is reasonably practicable; and
- (b) provide [the Board] with such information in relation to the sub-contract as it reasonably requests.

(3) Where the contractor sub-contracts clinical services under sub-paragraph (1), the parties to the agreement shall be deemed to have agreed a variation to the agreement which has the effect of adding to the list of the contractor's premises any premises which are to be used by the sub-contractor for the purpose of the sub-contract and paragraph 98(1) shall not apply.

(4) A contractor must ensure that any person with whom it sub-contracts is prohibited from sub-contracting the clinical services it has agreed with the contractor to provide.

[(5) The contractor, if it has a list of registered patients or a list of registered patients is held in respect of it, shall not sub-contract any of its rights or duties under the agreement in relation to the provision of essential services to a company or firm--

- (a) owned wholly or partly by the contractor, or by any former or current employee of, or partner or shareholder in, the contractor;
- (b) formed by or on behalf of the contractor, or from which it derives or may derive a pecuniary benefit; or
- (c) formed by or on behalf of a former or current employee of, or partner or shareholder in, the contractor, or from which such a person derives or may derive a pecuniary benefit,

where that company or firm is or was formed wholly or partly for the purpose of avoiding the restrictions on the sale of the goodwill of a medical practice in section 54 of the Act or any Regulations made wholly or partly under that section.]

## NOTES

### Initial Commencement

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### Extent

These Regulations apply to England only: see reg 1(2).

### Amendment

Para 53: sub-para (1)(a) substituted by SI 2013/363, regs 30, 50(1), (40)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: in sub-para (2)(b) word omitted revoked by SI 2006/1501, reg 5(b)(i).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

Para 53: sub-para (2)(c) substituted by SI 2004/2694, reg 15(1), (9)(a).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 53: in sub-para (2)(c) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (40)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: in sub-para (2)(c)(i) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (40)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: sub-para (2)(c)(ii) substituted by SI 2013/363, regs 30, 50(1), (40)(b)(iii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: sub-para (2)(d) inserted by SI 2006/1501, reg 5(b)(iii).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

Para 53: in sub-para (2)(d)(ii) words "the General Medical Council" in square brackets substituted by SI 2010/234, art 7(2), Sch 3, Pt 2, para 13(1), (3).

Date in force: 1 April 2010: see SI 2010/478, art 2(c).

Para 53: sub-para (2)(d)(iii) substituted by SI 2013/363, regs 30, 50(1), (40)(c)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: in sub-para (2)(d)(iv) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (40)(c)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 53: sub-para (3) inserted by SI 2004/2694, reg 15(1), (9)(b).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 53: sub-para (3) revoked by SI 2013/363, regs 30, 50(1), (40)(d).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 57: sub-para (1)(a) substituted by SI 2013/363, regs 30, 50(1), (41)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 57: sub-para (3)(a) substituted by SI 2013/363, regs 30, 50(1), (41)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 59: in sub-para (1) words ", other than a medical practitioner falling within paragraph 53(2)(d)," in square brackets inserted by SI 2006/1501, reg 5(c).

Date in force: 24 July 2006: see SI 2006/1501, reg 1(1).

Para 63: in sub-para (1) words omitted revoked by SI 2004/2694, reg 15(1), (10).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 63: sub-para (3) substituted by SI 2013/363, regs 30, 50(1), (42).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 65 heading: substituted by SI 2013/363, regs 30, 50(1), (43)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 65: sub-paras (1)-(3) substituted by SI 2013/363, regs 30, 50(1), (43)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 65: in sub-para (4) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (43)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 65: in sub-para (5) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (43)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 66: substituted by SI 2005/3315, reg 13(1), (7).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

Para 66: sub-para (2)(b) substituted by SI 2007/3491, reg 7(k).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 68: sub-para (1)(a) substituted by SI 2013/363, regs 30, 50(1), (44)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 68: sub-para (1)(b) substituted by SI 2013/363, regs 30, 50(1), (44)(a)(ii).



Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 68: sub-para (2) substituted by SI 2013/363, regs 30, 50(1), (44)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 69: in sub-para (2)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (45).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 69: sub-para (5) inserted by SI 2004/906, reg 5(1); for transitional provisions see reg 6(1) thereof.

Date in force: 1 April 2004: see SI 2004/906, reg 1(1).

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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 5 Records, Information, Notifications and Rights of Entry

**Part 5**

**Records, Information, Notifications and Rights of Entry**

**Patient records**

**70**

- (1) In this paragraph, "computerised records" means records created by way of entries on a computer.
- (2) The contractor shall keep adequate records of its attendance on and treatment of patients.
- (3) A contractor which provides essential services . . . shall keep the records referred to in sub-paragraph (2)--
  - (a) on forms supplied to it for the purpose by [the Board]; or
  - (b) with the written consent of [the Board], by way of computerised records,

or in a combination of those two ways.

(4) A contractor which provides essential services shall include in the records referred to in sub-paragraph (2) clinical reports sent in accordance with paragraph 5 of this Schedule or from any other health care professional who has provided clinical services to a person on its list of patients.

(5) The consent of [the Board] required by sub-paragraph (3)(b) shall not be withheld or withdrawn provided [the Board] is satisfied, and continues to be satisfied, that--

- (a) the computer system upon which the contractor proposes to keep the records has been accredited by the Secretary of State or another person on his behalf in accordance with ["General Practice Systems of Choice Level 2"];
  - (b) the security measures, audit and system management functions incorporated into the computer system as accredited in accordance with paragraph (a) have been enabled; and
  - [(c) the contractor is aware of, and has signed an undertaking that it will have regard to the guidelines contained in "The Good Practice Guidelines for GP electronic patient records (Version 4) published on 21st March 2011].
- (6) Where a patient's records are computerised records, the contractor . . . shall, 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 (5)(b) to the extent necessary for [the Board] to confirm that the audit function is enabled and functioning correctly.
- (7) The contractor . . . shall send the complete records relating to a patient to [the Board]--
- (a) where a person on its list dies, before the end of the period of 14 days beginning with the date on which it was informed by [the Board] of the death, or (in any other case) before the end of the period of one month beginning with the date on which it learned of the death as soon as possible, at the request of [the Board]; or
  - (b) in any other case where the person is no longer registered with the contractor, as soon as possible at the request of [the Board].
- (8) To the extent that a patient's records are computerised records, the contractor complies with sub-paragraph (7) if it sends to [the Board] a copy of those records--
- (a) in written form; or
  - (b) with the written consent of [the Board] in any other form.
- (9) The consent of [the Board] to the transmission of information other than in written form for the purposes of sub-paragraph (8)(b) shall not be withheld or withdrawn provided it is satisfied, and continues to be satisfied, with the following matters--
- (a) the contractor's proposals as to how the record will be transmitted;
  - (b) the contractor's proposals as to the format of the transmitted record;
  - (c) how the contractor will ensure that the record received by [the Board] is identical to that transmitted; and
  - (d) how a written copy of the record can be produced by [the Board].
- (10) A contractor whose patient's records are computerised records shall not disable, or attempt to disable, either the security measures or the audit and system management functions referred to in sub-paragraph (5)(b).

## **[Summary Care Record**

### **70A**

- (1) A contractor which provides essential services must, in any case where there is a change to the information included in a patient's medical record, enable the automated upload of summary information to the Summary Care Record, at least on a daily basis, using the approved systems provided to it by the Board.

- (2) The requirement in sub-paragraph (1) does not apply to a contractor where--
- (a) the contractor does not have access to computer systems and software which would enable it to carry out automated uploads of the summary information; and
  - (b) the contractor has, by 30th September 2014, publicised its plans to enable it to achieve that requirement by no later than 31st March 2015 by displaying a statement of intent at the practice premises and, where the practice has a website, on the practice website.

- (3) In this paragraph--

"Summary Care Record" means the system approved by the Board for the automated uploading, storing and displaying of patient data relating to medications, allergies, adverse reactions and, where agreed with the contractor and subject to the patient's consent, any other data taken from the patient's electronic record; and

"summary information" means items of patient data that comprise the Summary Care Record.

### **Electronic transfer of patient records**

#### **70B**

- (1) A contractor which provides essential services must use the facility known as "GP2GP" for the safe and effective transfer of any patient records--

- (a) in a case where a new patient registers with the contractor's practice, to the contractor's practice from another provider of primary medical services (if any) with which the patient was previously registered; or
- (b) in a case where the contractor receives a request from another provider of primary medical services with which the patient has registered, in order to respond to that request.

- (2) The requirement in sub-paragraph (1) does not apply to a contractor where--

- (a) the contractor does not have access to computer systems and software which would enable it to use the GP2GP facility to effect the transfer of patient records to another provider of primary medical services with a patient list; and
- (b) the contractor has, by 30th September 2014, publicised its plans to enable it to achieve that requirement by 31st March 2015 by displaying a statement of intent at the practice premises and, where the practice has a website, on the practice website.

- (3) In this paragraph, "GP2GP facility" means the facility provided by the Board to a contractor's practice which enables the electronic health records of a registered patient which are held on the computerised clinical systems of the contractor's practice to be transferred securely and directly to another provider of primary medical services with which the patient has registered.

- (4) The requirements of this paragraph do not apply in the case of a temporary resident.

### **Clinical correspondence: requirement for NHS number**

#### **70C**

- (1) A contractor must include the NHS number of a registered patient as the primary identifier in all clinical correspondence issued by the contractor which relates to that patient.

- (2) The requirement in sub-paragraph (1) does not apply where, in exceptional circumstances outside of the contractor's control, it is not possible for the contractor to ascertain the patient's NHS number.

- (3) In this paragraph--

"clinical correspondence" means all correspondence in writing, whether in electronic form or otherwise, between the contractor and other health service providers concerning or arising out of patient attendance and treatment at practice premises including referrals made by letter or by any other means; and

"NHS number", in relation to a registered patient, means the number, consisting of 10 numeric digits, which serves as the national unique identifier used for the purpose of safely, efficiently and accurately sharing information relating to that patient across the whole of the health service in England.

## **Patient online services**

### **70D**

(1) A contractor which provides essential services must promote and offer to its registered patients the facility for a patient--

- (a) to book, view, amend, cancel and print appointments online;
- (b) to order repeat prescriptions for drugs, medicines or appliances online; and
- (c) to view and print a list of any drugs, medicines or appliances in respect of which the patient has a repeat prescription,

in a manner which is capable of being electronically integrated with the computerised clinical systems of the contractor's practice.

(2) A contractor must promote and offer to its registered patients, in circumstances where the medical records of its patients are held on the contractor's computerised clinical systems, the facility for a patient to--

- (a) access online any summary information derived from the patient's medical records and any other data which the contractor has agreed that the patient may access; and
- (b) view online, electronically export or print any summary information derived from the patient's medical records and any other data which the contractor has agreed that the patient may access.

(3) Where the contractor has a practice website, the contractor must also promote and offer to its registered patients the facility referred to in sub-paragraph (1)(a) and (b) on that practice website.

(4) The requirements in sub-paragraph (1) do not apply where the contractor does not have access to computer systems and software which would enable it to offer the online services described in that sub-paragraph to its registered patients.

(5) The requirements in sub-paragraph (2) do not apply--

- (a) where the contractor does not have access to computer systems and software which would enable it to offer the online services described in that sub-paragraph to its registered patients; and
- (b) where the contractor has, by 30th September 2014, publicised its plans to enable it to achieve that requirement by 31st March 2015 by displaying a statement of intent at the practice premises and, where the practice has a website, on the practice website.

(6) In this paragraph "summary information" has the meaning given in paragraph 70A(3).]

## **Confidentiality of personal data**

### **71**

The contractor shall nominate a person with responsibility for practices and procedures relating to the confidentiality of personal data held by it.

**Contractor's leaflet****72**

A contractor which provides essential services shall--

- (a) compile a document (in this paragraph called a practice leaflet) which shall include the information specified in Schedule 10;
- (b) review its practice leaflet at least once in every period of 12 months and make any amendments necessary to maintain its accuracy; and
- (c) make available a copy of the leaflet, and any subsequent updates, to its patients and prospective patients.

**[Provision of information on website****72A**

In the case where a contractor has a website, the contractor must publish on that website details of the practice area, including the area known as the outer boundary area (within the meaning given in regulation 11(1A)), by reference to a sketch diagram, plan or postcode.]

**Provision of information****73**

[(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.]

[(3) The contractor shall produce the information requested, or, as the case may be, allow access to it--

- (a) by such date as has been agreed as reasonable between the contractor and [the Board]; or
- (b) in the absence of such agreement, within 28 days of the request being made.]

...

**74**

...

**Inquiries about prescriptions and referrals****75**

(1) A contractor . . . shall, subject to sub-paragraphs (2) and (3), sufficiently answer any inquiries whether oral or in writing from [the Board] concerning--

- (a) any prescription form or repeatable prescription issued [or created] by a prescriber;
- (b) the considerations by reference to which prescribers issue such forms;

- (c) the referral by or on behalf of the contractor of any patient to any other services provided under the Act; or
- (d) the considerations by which the contractor makes such referrals or provides for them to be made on its behalf.

(2) An inquiry referred to in sub-paragraph (1) may only be made for the purpose either of obtaining information to assist [the Board] to discharge its functions or of assisting the contractor in the discharge of its obligations under the agreement.

(3) The contractor shall not be obliged to answer any inquiry referred to in sub-paragraph (1) unless it is made--

- (a) in the case of sub-paragraph (1)(a) or (b), by an appropriately qualified health care professional; or
- (b) in the case of sub-paragraph (1)(c) or (d), by an appropriately qualified medical practitioner,

appointed in either case by [the Board] to assist it in the exercise of its functions under this paragraph and that person produces, on request, written evidence that he is authorised by [the Board] to make such an inquiry on its behalf.

**[Provision of information to a medical officer etc**

**76**

(1) The contractor must, if satisfied that the patient consents--

- (a) supply in writing to any person specified in sub-paragraph (3), within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-paragraph (3)(a) to (d) considers relevant about a patient to whom the contractor or a person acting on behalf of the contractor has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by any person mentioned in sub-paragraph (3) about--
  - (i) a prescription form or medical certificate issued or created by, or on behalf of, the contractor, or
  - (ii) any statement which the contractor or a person acting on behalf of the contractor has made in a report.

(2) For the purposes of being satisfied that a patient consents, a contractor may rely on an assurance in writing from any person mentioned in sub-paragraph (3) that the consent of the patient has been obtained, unless the contractor has reason to believe that the patient does not consent.

(3) For the purposes of sub-paragraph (1) and (2), the persons are--

- (a) a medical officer;
- (b) a nursing officer;
- (c) an occupational therapist;
- (d) a physiotherapist; or
- (e) an officer of the Department for Work and Pensions who is acting on behalf of, and at the direction of, any person specified in paragraphs (a) to (d).

(4) In this paragraph--

- (a) "medical officer" means a medical practitioner who is--

- (i) employed or engaged by the Department for Work and Pensions, or
  - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;
- (b) "nursing officer" means a health care professional who is registered on the Nursing and Midwifery Register and--
- (i) employed or engaged by the Department for Work and Pensions, or
  - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions;
- (c) "occupational therapist" means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the [Health and Social Work Professions Order 2001] relating to occupational therapists and--
- (i) employed or engaged by the Department for Work and Pensions, or
  - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions; and
- (d) "physiotherapist" means a health care professional who is registered in the part of the register maintained by the Health Professions Council under article 5 of the [Health and Social Work Professions Order 2001] relating to physiotherapists and--
- (i) employed or engaged by the Department for Work and Pensions, or
  - (ii) provided by an organisation under a contract entered into with the Secretary of State for Work and Pensions.]

### **Annual return and review**

**77**

- (1) The contractor shall submit an annual return relating to the agreement to [the Board] which shall require the same categories of information from all persons who hold agreements with [it].
- [(1A) One such return may be requested by [the Board] at any time during each financial year in relation to such period (not including any period covered by a previous annual return) as may be specified in the request.
- (1B) The contractor shall submit the completed return to [the Board]--
- (a) by such date as has been agreed as reasonable between the contractor and [the Board]; or
  - (b) in the absence of such agreement, within 28 days of the request being made.]
- (2) Following receipt of the return referred to in sub-paragraph (1), [the Board] shall arrange with the contractor an annual review of its performance in relation to the agreement.
- (3) [The Board] shall prepare a draft record of the review referred to in sub-paragraph (2) for comment by the contractor and, having regard to such comments, shall produce a final written record of the review.
- (4) A copy of the final record referred to in sub-paragraph (3) shall be sent to the contractor.
- [(5) In this paragraph, "financial year" means the twelve months ending with 31st March.]

### **Notifications to [the Board]**

**78**

In addition to any requirements of notification elsewhere in the regulations, the contractor shall notify [the Board] in writing, as soon as reasonably practicable, of--

- (a) any serious incident that, in the reasonable opinion of the contractor, affects or is likely to affect the contractor's performance of its obligations under the agreement;
- (b) any circumstances which give rise to [the Board's] right to terminate the agreement under paragraph . . . 104 or 105;
- (c) except where the contractor is [the Board], any appointments system which it proposes to operate and the proposed discontinuance of any such system;
- (d) except where the contractor is [the Board], any change of which it is aware in the address of a registered patient; and
- (e) the death of any patient of which it is aware.

**79**

. . .

**Notice provisions specific to an agreement with a qualifying body****80**

(1) Where a qualifying body is a party to the agreement, the contractor shall give notice in writing to [the Board] forthwith when--

- (a) any share in the qualifying body is transmitted or transferred (whether legally or beneficially) to another person on a date after the agreement has been entered into;
- [(aa) a new director or secretary is appointed;]
- (b) the qualifying body passes a resolution or a court of competent jurisdiction makes an order that the qualifying body be wound up;
- (c) circumstances arise which might entitle a creditor or a court to appoint a receiver, administrator or administrative receiver for the qualifying body;
- (d) circumstances arise which would enable the court to make a winding up order in respect of the qualifying body; or
- (e) the qualifying body is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (definition of inability to pay debts).

(2) A notice under sub-paragraph (1)(a) shall confirm that the new shareholder, or, as the case may be, the personal representative of a deceased shareholder--

- (a) falls within section 28D(1)(a), (b), (ba), (bb), (bc), [(d) or (f)] of the Act (persons with whom agreements may be made); and
- (b) meets the further conditions imposed on shareholders by virtue of [regulation] 5.

[(3) A notice under sub-paragraph (1)(aa) shall confirm that the new director or, as the case may be, secretary meets the conditions imposed on directors and secretaries by virtue of regulation 5.]

**Notification of deaths****81**



(1) The contractor shall report in writing to [the Board] the death on the contractor's premises of any patient no later than the end of the first working day after the date on which the death occurred.

(2) The report shall include--

- (a) the patient's full name;
- (b) the patient's National Health Service number where known;
- (c) the date and place of death;
- (d) a brief description of the circumstances, as known, surrounding the death;
- (e) the name of any medical practitioner or other person treating the patient whilst on the contractor's premises; and
- (f) the name, where known, of any other person who was present at the time of the death.

(3) ...

(4) ...

### **Notifications to patients following variation of the agreement**

#### **82**

Where the agreement is varied in accordance with Part 8 of this Schedule and, as a result of that variation--

- (a) there is to be a change in the range of services provided to the contractor's registered patients; or
- (b) patients who are on the contractor's list of patients are to be removed from that list,

[the Board] shall notify those patients in writing of the variation and its effect and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of essential services (or their equivalent).

### **Entry and inspection by [the Board]**

#### **83**

(1) Subject to the conditions in sub-paragraph (2), the contractor shall allow persons authorised in writing by [the Board] to enter and inspect its premises at any reasonable time.

(2) The conditions referred to in sub-paragraph (1) are that--

- (a) reasonable notice of the intended entry has been given;
- (b) written evidence of the authority of the person seeking entry is produced to the contractor on request; and
- (c) entry is not made to any premises or part of the premises used as residential accommodation without the consent of the resident.

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#### **84**

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### **Entry and inspection by the [Care Quality Commission]**

**85**

The contractor . . . shall allow persons authorised by the [Care Quality Commission] to enter and inspect the premises in accordance with section 66 of the Health and Social Care (Community Health and Standards) Act 2003 (right of entry)[, as modified by paragraph 15 of Schedule 3 to the Health and Social Care Act 2008 (Commencement No 9, Consequential Amendments and Transitory, Transitional and Saving Provisions) Order 2009 and section 62 of the Health and Social Care Act 2008 (entry and inspection)].

[. . .

**85A**

. . .]

**[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.]

**NOTES****Initial Commencement***Specified date*

Specified date: 1 April 2004: see reg 1(1).

**Extent**

These Regulations apply to England only: see reg 1(2).

**Amendment**

Para 70: in sub-para (3) words omitted revoked by SI 2013/363, regs 30, 50(1), (46)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (3)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (46)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (5) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (46)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (5)(a) words "'General Practice Systems of Choice Level 2'" in square brackets substituted by SI 2010/578, reg 10(1), (6).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 70: sub-para (5)(c) substituted by SI 2012/970, reg 12(1), (6).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 70: in sub-para (6) words omitted revoked by SI 2013/363, regs 30, 50(1), (46)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (6) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (46)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (7) words omitted revoked by SI 2013/363, regs 30, 50(1), (46)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (7) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (46)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (8) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (46)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 70: in sub-para (9) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (46)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 70A-70D: inserted by SI 2014/465, reg 14.

Date in force: 1 April 2014: see SI 2014/465, reg 1(2).

Para 72A: inserted by SI 2012/970, reg 12(1), (7).

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 73: sub-paras (1), (2) substituted by SI 2013/363, regs 30, 50(1), (47)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 73: sub-para (3) inserted by SI 2004/2694, reg 15(1), (11).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 73: in sub-para (3)(a) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (47)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 74: revoked by SI 2008/528, reg 19, Schedule, para 7(1), (3)(b).

Date in force: 1 April 2008: see SI 2008/528, reg 1(2).

Para 75: in sub-para (1) words omitted revoked by SI 2013/363, regs 30, 50(1), (48)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 75: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (48)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 75: in sub-para (1)(a) words "or created" in square brackets inserted by SI 2005/893, reg 8(1), (16).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 75: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (48)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 75: in sub-para (3) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (48)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 76: substituted by SI 2010/578, reg 10(1), (7).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 76: in sub-para (4)(c), (d) words "Health and Social Work Professions Order 2001" in square brackets substituted by SI 2012/1479, art 11, Schedule, Pt 1, para 38(1), (3).

Date in force: 1 August 2012: see SI 2012/1479, art 1(2).

Para 77: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (49)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 77: in sub-para (1) word "it" in square brackets substituted by SI 2013/363, regs 30, 50(1), (49)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 77: sub-paras (1A), (1B) inserted by SI 2004/2694, reg 15(1), (12)(a).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 77: in sub-para (1A) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (49)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 77: in sub-para (1B) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (49)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 77: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (49)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 77: in sub-para (3) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (49)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 77: sub-para (5) inserted by SI 2004/2694, reg 15(1), (12)(b).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 78 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (50)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 78: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (50)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 78: in sub-para (b) words "the Board's" in square brackets substituted by SI 2013/363, regs 30, 50(1), (50)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 78: in sub-para (b) reference omitted revoked by SI 2005/893, reg 8(1), (18).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 78: in sub-paras (c), (d) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (50)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 79: revoked by SI 2013/363, regs 30, 50(1), (51).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 80: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (52).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 80: sub-para (1)(aa) inserted by SI 2005/893, reg 8(1), (19)(a).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 80: in sub-para (2)(a) words "(d) or (f)" in square brackets substituted by SI 2005/893, reg 8(1), (19)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 80: in sub-para (2)(b) word "regulation" in square brackets substituted by SI 2004/2694, reg 15(1), (13).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 80: sub-para (3) inserted by SI 2005/893, reg 8(1), (19)(c).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 81: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (53)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 81: sub-paras (3), (4) revoked by SI 2013/363, regs 30, 50(1), (53)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 82: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (54).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 83 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (55).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 83: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (55).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 84: revoked by SI 2008/528, reg 19, Schedule, para 7(1), (3)(b).

Date in force: 1 April 2008: see SI 2008/528, reg 1(2).

Para 85 heading: words "Care Quality Commission" in square brackets substituted by SI 2010/578, reg 10(1), (8).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 85: words omitted revoked by SI 2013/363, regs 30, 50(1), (56).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 85: words "Care Quality Commission" in square brackets substituted by SI 2010/578, reg 10(1), (8)(a).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 85: words from ", as modified by" to "(entry and inspection)" in square brackets inserted by SI 2010/578, reg 10(1), (8)(b).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 85A: inserted by SI 2008/1514, reg 4.

Date in force: 14 July 2008: see SI 2008/1514, reg 1(3).

Para 85A: revoked by SI 2013/363, regs 30, 50(1), (57).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 85B: inserted by SI 2013/363, regs 30, 50(1), (57).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 6 Complaints

**Part 6**

## Complaints

### [Complaints procedure

**86**

- (1) The contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the agreement.
- (2) In respect of complaints made on or after 1st April 2009, the complaints procedure required by subparagraph (1) shall comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.
- (3) . . .]

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### **Co-operation with investigations**

**91**

(1) The contractor . . . shall co-operate with any investigation of a complaint in relation to any matter reasonably connected with the provision of services by the contractor undertaken by--

- [(a) the Board; and]
- (b) [the Health Service Commissioner].

(2) The contractor shall co-operate with any investigation of a complaint by an NHS body or local authority which relates to a patient or former patient of the contractor.

(3) [In this paragraph]--

"NHS body" means [the Board, a CCG], (in England and Wales and Scotland) an NHS trust, an NHS foundation trust, . . . a Local Health Board, a Health Board, a Health and Social Services Board or a Health and Social Services Trust;

"local authority" means--

- (a) any of the bodies listed in section 1 of the Local Authority Social Services Act 1970 (local authorities);
- (b) the Council of the Isles of Scilly; or



(c) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994 (constitution of councils);

["Health Service Commissioner" means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993].

- (4) The co-operation required by sub-paragraphs (1) and (2) includes--
- (a) answering questions reasonably put to the contractor by [the Board];
  - (b) providing any information relating to the complaint reasonably required by [the Board]; and
  - (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given) if the contractor's presence at the meeting is reasonably required by [the Board].

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## **NOTES**

### **Initial Commencement**

#### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Para 86: substituted by SI 2009/309, reg 23, Schedule, para 4(1), (2).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

Para 86: sub-para (3) revoked by SI 2013/363, regs 30, 50(1), (58).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 87-90: revoked by SI 2009/309, reg 23, Schedule, para 4(1), (4).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

Para 91: in sub-para (1) words omitted revoked by SI 2013/363, regs 30, 50(1), (59)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 91: sub-para (1)(a) substituted by SI 2013/363, regs 30, 50(1), (59)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 91: in sub-para (1)(b) words "the Commission for Healthcare Audit and Inspection" in square brackets substituted by SI 2009/309, reg 23, Schedule, para 4(1), (3)(a).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

Para 91: in sub-para (3) words "In this paragraph" in square brackets substituted by SI 2009/309, reg 23, Schedule, para 4(1), (3)(b).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

Para 91: in sub-para (3) in definition "NHS body" words "the Board, a CCG" in square brackets substituted by SI 2013/363, regs 30, 50(1), (59)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 91: in sub-para (3) in definition "NHS body" words omitted revoked by SI 2013/363, regs 30, 50(1), (59)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 91: in sub-para (3) definition "Health Service Commissioner" inserted by SI 2009/309, reg 23, Schedule, para 4(1), (3)(c).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

Para 91: in sub-para (4)(a)-(c) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (59)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 92: revoked by SI 2009/309, reg 23, Schedule, para 4(1), (4).

Date in force: 1 April 2009: see SI 2009/309, reg 1(2).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 7 Dispute Resolution

**Part 7**

**Dispute Resolution**

**Local resolution of agreement disputes****93**

(1) Subject to sub-paragraph (2), in the case of any dispute arising out of or in connection with the agreement, the contractor and [the Board] must make every reasonable effort to communicate and co-operate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the NHS dispute resolution procedure (or, where applicable, before commencing court proceedings).

(2) In the case of a dispute which falls to be dealt with under the procedure specified in paragraph 35, sub-paragraph (1) does not apply where it is not practicable for the parties to attempt local resolution before the expiry of the period specified in paragraph 35(4).

**Dispute resolution: non-NHS contracts****94**

(1) In the case of an agreement which is not an NHS contract, any dispute arising out of or in connection with the agreement, except matters dealt with under the complaints procedure pursuant to Part 6 of this Schedule, may be referred for consideration and determination to the Secretary of State, if--

- (a) [the Board] so wishes and the contractor has agreed in writing; or
- (b) the contractor so wishes (even if [the Board] does not agree).

(2) In the case of a dispute referred to the Secretary of State under sub-paragraph (1)--

- (a) the procedure to be followed is the NHS dispute resolution procedure; and
- (b) the parties agree to be bound by any determination made by the adjudicator.

**NHS dispute resolution procedure****95**

(1) Subject to sub-paragraph (2), the procedure specified in the following sub-paragraphs and paragraph 96 applies in the case of any dispute arising out of or in connection with the agreement which is referred to the Secretary of State--

- (a) in accordance with section 4(3) of the 1990 Act (where the agreement is an NHS contract); or
- (b) in accordance with paragraph 94(1) (where the agreement is not an NHS contract).

(2) The procedure specified in this paragraph and paragraph 96 does not apply where a contractor refers a matter for determination in accordance with paragraph 35(1) of this Schedule, and in such a case the procedure specified in that paragraph shall apply instead.

(3) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) shall send to the Secretary of State a written request for dispute resolution which shall include or be accompanied by--

- (a) the names and addresses of the parties to the dispute;
- (b) a copy of the agreement; and
- (c) a brief statement describing the nature and circumstances of the dispute.

(4) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) must send the request under sub-paragraph (3) within a period of three years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.

- (5) Where the dispute relates to an agreement which is not an NHS contract, the Secretary of State may determine the matter himself or, if he considers it appropriate, appoint a person or persons to consider and determine it.
- (6) Before reaching a decision as to who should determine the dispute, either under sub-paragraph (5) or under section 4(5) of the 1990 Act, the Secretary of State shall, within the period of 7 days beginning with the date on which a matter was referred to him, send a written request to the parties to make in writing, within a specified period, any representations which they may wish to make about the matter [under dispute].
- (7) The Secretary of State shall give, with the notice given under sub-paragraph (6), to the party other than the one which referred the matter to dispute resolution a copy of any document by which the matter was referred to dispute resolution.
- (8) The Secretary of State shall give a copy of any representations received from a party to the other party, and shall in each case request (in writing) a party to whom a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.
- (9) Following receipt of any representations from the parties or, if earlier, at the end of the period for making such representations specified in the request sent under sub-paragraph (6) or (8), the Secretary of State shall, if he decides to appoint a person or persons to hear the dispute--
- (a) inform the parties in writing of the name of the person or persons whom he has appointed; and
  - (b) pass to the person or persons so appointed any documents received from the parties under or pursuant to sub-paragraph (3), (6) or (8).
- (10) For the purpose of assisting him in his consideration of the matter, the adjudicator may--
- (a) invite representatives of the parties to appear before him to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which he wishes them to give special consideration; or
  - (b) consult other persons whose expertise he considers will assist him in his consideration of the matter.
- (11) Where the adjudicator consults another person under sub-paragraph (10)(b), he shall notify the parties accordingly in writing and, where he considers that the interests of any party might be substantially affected by the result of the consultation, he shall give to the parties such opportunity as he considers reasonable in the circumstances to make observations on those results.
- (12) In considering the matter, the adjudicator shall consider--
- (a) any written representations made in response to a request under sub-paragraph (6), but only if they are made within the specified period;
  - (b) any written observations made in response to a request under sub-paragraph (8), but only if they are made within the specified period;
  - (c) any oral representations made in response to an invitation under sub-paragraph (10)(a);
  - (d) the results of any consultation under sub-paragraph (10)(b); and
  - (e) any observations made in accordance with an opportunity given under sub-paragraph (11).
- (13) In this paragraph, "specified period" means such period as the Secretary of State shall specify in the request, being not less than two, nor more than four, weeks beginning with the date on which the notice referred to is given, but the Secretary of State may, if he considers that there is good reason for doing so, extend any such period (even after it has expired) and, where he does so, a reference in this paragraph to the specified period is to the period as so extended.

(14) Subject to the other provisions of this paragraph and paragraph 96 and to any agreement by the parties, the adjudicator shall have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

### **Determination of dispute**

#### **96**

(1) The adjudicator shall record his determination and the reasons for it in writing and shall give notice of the determination (including the record of the reasons) to the parties.

(2) Where the adjudicator makes a direction as to payments under section 4(7) of the 1990 Act (as it has effect as a result of regulation 9 or paragraph 94(1)), that direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

(3) In the case of an agreement referred for determination in accordance with paragraph 94(1), subsection (8) of section 4 of the 1990 Act shall apply as that subsection applies in the case of an agreement referred for determination in accordance with subsection (3) of section 4 of that Act.

### **Interpretation of Part 7**

#### **97**

(1) In this Part, "any dispute arising out of or in connection with the agreement" includes any dispute arising out of or in connection with the termination of the agreement.

(2) Any term of the agreement that makes provision in respect of the requirements in this Part shall survive even where the agreement has terminated.

### **NOTES**

#### **Initial Commencement**

##### *Specified date*

Specified date: 1 April 2004: see reg 1(1).

#### **Extent**

These Regulations apply to England only: see reg 1(2).

#### **Amendment**

Para 93: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (60).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 94: in sub-para (1)(a), (b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (61).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 95: in sub-para (6) words "under dispute" in square brackets inserted by SI 2004/2694, reg 15(1), (16).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Document information
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 8 Variation and Termination of Agreements

**Part 8**

**Variation and Termination of Agreements**

**Variation of an agreement: general**

**98**

(1) Subject to sub-paragraph (2) and paragraphs [69(3)] and 109, no amendment or variation shall have effect unless it is in writing and signed by or on behalf of [the Board] and the contractor.

(2) In addition to the specific provision made in paragraph 109, [the Board] may vary the agreement without the contractor's consent where it--

(a) is reasonably satisfied that it is necessary to vary the agreement so as to comply with the Act, any regulations made pursuant to that Act, or any direction given by the Secretary of State pursuant to that Act; and

(b) notifies the contractor in writing of the wording of the proposed variation and the date upon which that variation is to take effect,

and, where it is reasonably practicable to do so, the date that the proposed variation is to take effect shall be not less than 14 days after the date on which the notice under paragraph (b) is served on the contractor.

**Termination by agreement**

**99**

[The Board] and the contractor may agree in writing to terminate the agreement, and if the parties so agree, they shall agree the date upon which that termination should take effect and any further terms upon which the agreement should be terminated.

**[Termination on death**

**99A**

(1) Where the agreement is with a single individual and that individual dies, the agreement shall terminate at the end of the period of seven days after the date of his death unless, before the end of that period [the Board] has agreed in writing with the contractor's personal representatives that the agreement should continue for a further period, not exceeding 28 days after the end of the period of seven days.

(2) Sub-paragraph (1) does not affect any other rights to terminate the agreement which [the Board] may have under paragraphs 104 to 107.]

**[Termination by serving notice**

**100**

- (1) The contractor or [the Board] may terminate the agreement by serving notice in writing on the other party at any time.
- (2) Where a notice is served pursuant to sub-paragraph (1) and the period of notice in relation to such termination (which must be a period of not less than six months) has previously been agreed between the parties and provided for in the agreement, the date of termination under the notice must be calculated in accordance with such agreed period of notice, and the agreement will terminate on the date so calculated.
- (3) Where a notice is served pursuant to sub-paragraph (1) and no period of notice has previously been agreed between the parties and provided for in the agreement in relation to such termination, the period of notice required must be six months and the date of termination under the notice must be calculated accordingly, and the agreement will terminate on the date so calculated.
- (4) This paragraph is without prejudice to any other rights to terminate the agreement which the contractor and [the Board] may have.]

**Late payment notices**

**101**

- (1) The contractor may give notice in writing (a "late payment notice") to [the Board] if [the Board] has failed to make any payments due to the contractor in accordance with a term of the agreement that has the effect specified in [regulation 13], and the contractor shall specify in the late payment notice the payments that [the Board] has failed to make in accordance with that regulation.
- (2) Subject to sub-paragraph (3), the contractor may, at least 28 days after having served a late payment notice, terminate the agreement by a further written notice if [the Board] has still failed to make the payments due to the contractor, and that were specified in the late payment notice served on [the Board] pursuant to sub-paragraph (1).
- (3) If, following receipt of a late payment notice, [the Board] refers the matter to the NHS dispute resolution procedure within 28 days of the date upon which it is served with the late payment notice, and it notifies the contractor in writing that it has done so within that period of time, the contractor may not terminate the agreement pursuant to sub-paragraph (2) until--
  - (a) there has been a determination of the dispute pursuant to paragraph 95 and that determination permits the contractor to terminate the agreement; or
  - (b) [the Board] ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

- (4) . . . Sub-paragraphs (1), (2) and (3) are without prejudice to any other rights to terminate the agreement that the contractor may have.

...

**102**

...

...

**103**

...

### Termination by [the Board] for the provision of untrue etc information

#### 104

[The Board] may serve notice in writing on the contractor terminating the agreement forthwith, or from such date as may be specified in the notice if, after the agreement has been entered into, it comes to the attention of [the Board] that written information provided to [the Board] [by the contractor--

- (a) before the agreement was entered into; or
- (b) pursuant to paragraph 80(2) or (3),

in relation to the conditions set out in regulation 5 (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect].

### Termination by [the Board] on fitness grounds

#### 105

(1) [The Board] may serve notice in writing on the contractor terminating the agreement forthwith, or from such date as may be specified in the notice if--

- (a) in the case of an agreement with an individual as a party, that individual; or
- (b) in the case of an agreement with a qualifying body as a party--
  - (i) the qualifying body,
  - (ii) any person [both] legally and beneficially owning a share in the qualifying body, or
  - (iii) any director or secretary of the qualifying body,

falls within sub-paragraph (3) during the existence of the agreement [or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 5 was given under paragraph 80(2) or (3)].

(2) In the case of a person who is a party to an agreement made before the 1st April 2004 and which is deemed to be an agreement made under section 28C of the Act, the reference to "during the existence of the agreement" shall be read as excluding any period before the 1st April 2004.

(3) A person falls within this sub-paragraph if--

- (a) he or it (in the case of a qualifying body) is the subject of a national disqualification;
- (b) subject to sub-paragraph (4), he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation or a suspension on the grounds of ill-health) from practising by any licensing body anywhere in the world;
- (c) subject to sub-paragraph (5), he has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body unless before [the Board] has served a notice terminating the agreement pursuant to this paragraph, he is employed by the health service body that dismissed him or by another health service body;
- (d) he or it is removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of [section 151(2), (3) and (4) of the 2006 Act respectively]) unless his name has subsequently been included in such a list;
- (e) he has been convicted in the United Kingdom of murder;
- (f) he has been convicted in the United Kingdom of a criminal offence and has been sentenced to a term of imprisonment of over six months;
- (g) subject to sub-paragraph (6), he has been convicted elsewhere of an offence--



- (i) which would, if committed in England and Wales, constitute murder, or
  - (ii) which would, if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;
- (h) he has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933;
- (i) he or it has--
- (i) been adjudged bankrupt or had sequestration of his estate awarded [or is a person in relation to whom a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986) applies] unless . . . he has been discharged [from the bankruptcy or the sequestration] or the bankruptcy order has been annulled,
  - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986 [or Schedule 2A to the Insolvency (Northern Ireland) Order 1989], unless that order has ceased to have effect or has been annulled,
  - [(iia) been made the subject of a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 unless that order has ceased to have effect or has been annulled, or]
  - (iii) made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it,
  - (iv) an administrator, administrative receiver or receiver appointed in respect of it,
  - (v) an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986, or
  - (vi) been wound up under Part IV of the Insolvency Act 1986;
- (j) he has been--
- (i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated, or
  - (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities) [or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session)], from being concerned in the management or control of any body;
- (k) he is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order); or
- (l) has refused to comply with a request by [the Board] for him to be medically examined on the grounds that it is concerned that he is incapable of adequately providing services under the agreement.
- (4) [The Board] shall not terminate the agreement pursuant to sub-paragraph (3)(b) where [the Board] is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make the person unsuitable to be--
- (a) a party to the agreement;
  - (b) in the case of an agreement with a qualifying body--
    - (i) a person [both] legally and beneficially owning a share in the qualifying body, or

- (ii) a director or secretary of the qualifying body,

as the case may be.

(5) [The Board] shall not terminate the agreement pursuant to sub-paragraph (3)(c)--

- (a) until a period of at least three months has elapsed since the date of the dismissal of the person concerned; or
- (b) if, during the period of time specified in paragraph (a), the person concerned brings proceedings in any competent tribunal or court in respect of his dismissal, until proceedings before that tribunal or court are concluded,

and [the Board] may only terminate the agreement at the end of the period specified in paragraph (b) if there is no finding of unfair dismissal at the end of those proceedings.

(6) [The Board] shall not terminate the agreement pursuant to sub-paragraph (3)(g) where [the Board] is satisfied that the conviction does not make the person unsuitable to be--

- (a) a party to the agreement; or
- (b) in the case of an agreement with a qualifying body--
  - (i) a person [both] legally and beneficially owning a share in the qualifying body, or
  - (ii) a director or secretary of the qualifying body,

as the case may be.

#### **Termination by [the Board] where there is a serious risk to the safety of patients or risk of financial loss to [the Board]**

##### **106**

[The Board] may serve notice in writing on the contractor terminating the agreement forthwith or with effect from such date as may be specified in the notice if--

- (a) the contractor has breached the agreement and as a result of that breach, the safety of the contractor's patients is at serious risk if the agreement is not terminated; or
- (b) the contractor's financial situation is such that [the Board] considers that [the Board] is at risk of material financial loss.

#### **[Termination by [the Board] for unlawful sub-contracting**

##### **106A**

If the contractor breaches the condition specified in paragraph 69(5) and it comes to [the Board's] attention that the contractor has done so, [the Board] shall serve notice in writing on the contractor--

- (a) terminating the agreement forthwith; or
- (b) instructing it to terminate the sub-contracting arrangements that give rise to the breach forthwith, and if it fails to comply with the instruction, [the Board] shall serve a notice in writing on the contractor terminating the agreement forthwith.]

#### **Termination by [the Board]: remedial notices and breach notices**

##### **107**

(1) Where a contractor has breached the agreement other than as [specified in paragraphs 104 to 106A] and the breach is capable of remedy, [the Board] shall, before taking any action it is otherwise entitled to take by virtue of the agreement, serve a notice on the contractor requiring it to remedy the breach ("remedial notice").

(2) A remedial notice shall specify--

- (a) details of the breach;
- (b) the steps the contractor must take to the satisfaction of [the Board] in order to remedy the breach; and
- (c) the period during which the steps must be taken ("the notice period").

(3) The notice period shall, unless [the Board] is satisfied that a shorter period is necessary to--

- (a) protect the safety of the contractor's patients; or
- (b) protect itself from material financial loss,

be no less than 28 days from the date that notice is given.

(4) Where [the Board] is satisfied that the contractor has not taken the required steps to remedy the breach by the end of the notice period, [the Board] may terminate the agreement with effect from such date as [the Board] may specify in a further notice to the contractor.

(5) Where a contractor has breached the agreement other than as [specified in paragraphs 104 to 106A] and the breach is not capable of remedy, [the Board] may serve notice on the contractor requiring the contractor not to repeat the breach ("breach notice").

(6) If, following a breach notice or a remedial notice, the contractor--

- (a) repeats the breach that was the subject of the breach notice or the remedial notice; or
- (b) otherwise breaches the agreement resulting in either a remedial notice or a further breach notice,

[the Board] may serve notice on the contractor terminating the agreement with effect from such date as may be specified in that notice.

(7) [The Board] shall not exercise its right to terminate the agreement under sub-paragraph (6) unless it is satisfied that the cumulative effect of the breaches is such that [the Board] considers that to allow the agreement to continue would be prejudicial to the efficiency of the services to be provided under the agreement.

(8) If the contractor is in breach of any obligation and a breach notice or a remedial notice in respect of that default has been given to the contractor, [the Board] may withhold or deduct monies which would otherwise be payable under the agreement in respect of that obligation which is the subject of the default.

### **Termination by [the Board]: additional provisions specific to agreements with qualifying bodies**

#### **108**

Where a party to the agreement is a qualifying body, if [the Board] becomes aware that the qualifying body is carrying on any business which [the Board] considers to be detrimental to the contractor's performance of its obligations under the agreement--

- (a) [the Board] shall be entitled to give notice to the contractor requiring that the qualifying body ceases carrying on that business before the end of a period of not less than 28 days beginning on the day on which the notice is given ("the notice period"); and

(b) if the contractor has not satisfied [the Board] that the qualifying body has ceased carrying on that business by the end of the notice period, [the Board] may, by a further written notice, terminate the agreement forthwith or from such date as may be specified in the notice.

### **Agreement sanctions**

#### **109**

(1) In this paragraph and paragraph 110, "agreement sanction" means--

- (a) termination of specified reciprocal obligations under the agreement;
- (b) suspension of specified reciprocal obligations under the agreement for a period of up to six months; or
- (c) withholding or deducting monies otherwise payable under the agreement.

(2) Where [the Board] is entitled to terminate the agreement pursuant to paragraph 104, 105, 106, 107(4) or (6) or 108, it may instead impose any of the agreement sanctions if [the Board] is reasonably satisfied that the agreement sanction to be imposed is appropriate and proportionate to the circumstances giving rise to [the Board's] entitlement to terminate the agreement.

(3) If [the Board] decides to impose an agreement sanction, it must notify the contractor of the agreement sanction that it proposes to impose, the date upon which that sanction will be imposed and provide in that notice an explanation of the effect of the imposition of that sanction.

(4) Subject to paragraph 110, [the Board] shall not impose the agreement sanction until at least 28 days after it has served notice on the contractor pursuant to sub-paragraph (3) unless [the Board] is satisfied that it is necessary to do so in order to--

- (a) protect the safety of the contractor's patients; or
- (b) protect itself from material financial loss.

(5) Where [the Board] imposes an agreement sanction, [the Board] shall be entitled to charge the contractor the reasonable costs of additional administration that [the Board] has incurred in order to impose, or as a result of imposing, the agreement sanction.

### **Agreement sanctions and the NHS dispute resolution procedure**

#### **110**

(1) If there is a dispute between [the Board] and the contractor in relation to an agreement sanction that [the Board] is proposing to impose, [the Board] shall not, subject to sub-paragraph (4), impose the proposed agreement sanction except in the circumstances specified in sub-paragraph (2)(a) or (b).

(2) If the contractor refers the dispute relating to the agreement sanction to the NHS dispute resolution procedure within 28 days beginning on the date on which [the Board] served notice on the contractor in accordance with paragraph 109(4) (or such longer period as may be agreed in writing with [the Board]), and notifies [the Board] in writing that it has done so, [the Board] shall not impose the agreement sanction unless--

- (a) there has been a determination of the dispute pursuant to paragraph 95 and that determination permits [the Board] to impose the agreement sanction; or
- (b) the contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

- (3) If the contractor does not invoke the NHS dispute resolution procedure within the time specified in sub-paragraph (2), [the Board] shall be entitled to impose the agreement sanction forthwith.
- (4) If [the Board] is satisfied that it is necessary to impose the agreement sanction before the NHS dispute resolution procedure is concluded in order to--
- (a) protect the safety of the contractor's patients; or
  - (b) protect itself from material financial loss,

[the Board] shall be entitled to impose the agreement sanction forthwith, pending the outcome of that procedure.

### **Termination and the NHS dispute resolution procedure**

#### **111**

- (1) Where [the Board] is entitled to serve written notice on the contractor terminating the agreement pursuant to paragraph 104, 105, 106, 107(4) or (6) or 108, [the Board] shall, in the notice served on the contractor pursuant to those provisions, specify a date on which the agreement terminates that is not less than 28 days after the date on which [the Board] has served that notice on the contractor unless sub-paragraph (2) applies.
- (2) This sub-paragraph applies if [the Board] is satisfied that a period less than 28 days is necessary in order to--
- (a) protect the safety of the contractor's patients; or
  - (b) protect itself from material financial loss.
- (3) In a case falling with sub-paragraph (1) where the exception in sub-paragraph (2) does not apply, where the contractor invokes the NHS dispute resolution procedure before the end of the period of notice referred to in sub-paragraph (1), and it notifies [the Board] in writing that it has done so, the agreement shall not terminate at the end of the notice period but instead shall only terminate in the circumstances specified in sub-paragraph (4).
- (4) The agreement shall only terminate if and when--
- (a) there has been a determination of the dispute pursuant to paragraph 95 and that determination permits the relevant body to terminate the agreement; or
  - (b) the contractor ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

- (5) If [the Board] is satisfied that it is necessary to terminate the agreement before the NHS dispute resolution procedure is concluded in order to--
- (a) protect the safety of the contractor's patients; or
  - (b) protect itself from material financial loss,

sub-paragraphs (3) and (4) shall not apply and [the Board] shall be entitled to confirm by written notice to be served on the contractor, that the agreement will nevertheless terminate at the end of the period of the notice it served pursuant to paragraph 104, 105, 106, 107(4) or (6) or 108.

### **NOTES**

#### **Initial Commencement**

***Specified date***

Specified date: 1 April 2004: see reg 1(1).

**Extent**

These Regulations apply to England only: see reg 1(2).

**Amendment**

Para 98: in sub-para (1) reference to "69(3)" in square brackets substituted by SI 2004/2694, reg 15(1), (17).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 98: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (62).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 98: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (62).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 99: words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (63).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 99A: inserted by SI 2005/893, reg 8(1), (20).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 99A: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (64).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 99A: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (64).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 100: substituted by SI 2010/578, reg 10(1), (9).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 100: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (65).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 100: in sub-para (4) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (65).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 101: in sub-para (1) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (66).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 101: in sub-para (1) words "regulation 13" in square brackets substituted by SI 2010/578, reg 10(1), (10)(a).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 101: in sub-para (2) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (66).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 101: in sub-para (3) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (66).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 101: in sub-para (4) words omitted revoked by SI 2010/578, reg 10(1), (10)(b).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 102: revoked by SI 2010/578, reg 10(1), (11).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 103: revoked by SI 2004/2694, reg 15(1), (18).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 104 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (67).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 104: words "The Board" and "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (67).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 104: words from "by the contractor--" to "a material respect" in square brackets substituted by SI 2005/893, reg 8(1), (21).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 105 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (1) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (1)(b)(ii) word "both" in square brackets inserted by SI 2013/363, regs 30, 50(1), (68)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (1) words from "or, if later," to "paragraph 80(2) or (3)" in square brackets inserted by SI 2005/893, reg 8(1), (22).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 105: in sub-para (3)(c) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(c)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (3)(d) words "section 151(2), (3) and (4) of the 2006 Act respectively" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(c)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (3)(i)(i) words from "or is a" to "Insolvency Act 1986) applies" in square brackets inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (3)(a)(i).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para 105: in sub-para (3)(i)(i) words omitted revoked by SI 2012/2404, art 3(3), Sch 3, para 33(1), (3)(a)(ii).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para 105: in sub-para (3)(i)(i) words "from the bankruptcy or the sequestration" in square brackets inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (3)(a)(iii).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.



Para 105: in sub-para (3)(i)(ii) words "or Schedule 2A to the Insolvency (Northern Ireland) Order 1989" in square brackets inserted by SI 2007/3491, reg 7(m).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 105: sub-para (3)(i)(ia) inserted by SI 2012/2404, art 3(3), Sch 3, para 33(1), (3)(c).

Date in force: 1 October 2012: see SI 2012/2404, art 1; for transitional provisions see art 7 thereof.

Para 105: in sub-para (3)(j)(ii) words from "or under section" to "Court of Session)" in square brackets inserted by SI 2010/578, reg 10(1), (12).

Date in force: 1 April 2010: see SI 2010/578, reg 1(1).

Para 105: in sub-para (3)(l) words "the Board" in square brackets substituted by virtue of SI 2013/363, regs 30, 50(1), (68)(c).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (4) words "The Board" and "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(d)(i), (ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (4)(b)(i) word "both" in square brackets inserted by SI 2013/363, regs 30, 50(1), (68)(d)(iii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (5) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(e)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (5) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(e)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (6) words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(f)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (68)(f)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 105: in sub-para (6)(b)(i) word "both" in square brackets inserted by SI 2013/363, regs 30, 50(1), (68)(f)(iii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106 heading: words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (69).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106: words "The Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (69).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106: in sub-para (b) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (69).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106A: inserted by SI 2004/906, reg 5(2); for transitional provisions see reg 6(1) thereof.

Date in force: 1 April 2004: see SI 2004/906, reg 1(1).

Para 106A heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (70)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106A: words "the Board's" in square brackets substituted by SI 2013/363, regs 30, 50(1), (70)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 106A: words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (70)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (1) words "specified in paragraphs 104 to 106A" in square brackets substituted by SI 2007/3491, reg 7(n).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 107: in sub-para (1) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (2)(b) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (4) words "the Board" in square brackets in the first place they occur substituted by SI 2013/363, regs 30, 50(1), (71)(b)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (4) words "the Board" in square brackets in the second and final places they occur substituted by SI 2013/363, regs 30, 50(1), (71)(b)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (5) words "specified in paragraphs 104 to 106A" in square brackets substituted by SI 2007/3491, reg 7(n).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 107: in sub-para (5) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (7) words "The Board" and "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 107: in sub-para (8) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (71)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 108 heading: words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (72).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 108: words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (72).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 109: in sub-para (2) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (73)(a)(i).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 109: in sub-para (2) words "the Board's" in square brackets substituted by SI 2013/363, regs 30, 50(1), (73)(a)(ii).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 109: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (73)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 109: in sub-para (4) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (73)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 109: in sub-para (5) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (73)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 110: in sub-para (1) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (74).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 110: in sub-para (2) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (74).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 110: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (74).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 110: in sub-para (4) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (74).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 111: in sub-para (1) words "the Board" in square brackets in each place they occur substituted by SI 2013/363, regs 30, 50(1), (75).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 111: in sub-para (2) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (75).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 111: in sub-para (3) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (75).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 111: in sub-para (5) words "the Board" in square brackets in both places they occur substituted by SI 2013/363, regs 30, 50(1), (75).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 5 Other Contractual Terms/Part 9 Miscellaneous

**Part 9**

**Miscellaneous**

**Clinical governance**

**112**

- (1) The contractor shall have an effective system of clinical governance [which shall include appropriate standard operating procedures in relation to the management and use of controlled drugs].
- (2) The contractor shall nominate a person who will have responsibility for ensuring the effective operation of the system of clinical governance.
- (3) The person nominated under sub-paragraph (2) shall be a person who performs or manages services under the agreement.
- (4) In this paragraph "system of clinical governance" means a framework through which the contractor endeavours to continuously improve the quality of its services and safeguards high standards of care by creating an environment in which clinical excellence can flourish.

**[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.]

**[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.]

**Insurance****113**

- (1) The contractor shall at all times hold adequate insurance against liability arising from negligent performance of clinical services under the agreement.
- (2) The contractor shall not sub-contract its obligations to provide clinical services under the agreement unless it has satisfied itself that the sub-contractor holds adequate insurance against liability arising from negligent performance of such services.
- (3) In this paragraph--
  - (a) "insurance" means a contract of insurance or other arrangement made for the purpose of indemnifying the contractor; and
  - (b) a contractor shall be regarded as holding insurance if it is held by [a person employed or engaged by it in connection with clinical services which that person] provides under the agreement or, as the case may be, sub-contract.

**114**

[(1)] The contractor shall at all times hold adequate public liability insurance in relation to liabilities to third parties arising under or in connection with the agreement which are not covered by the insurance referred to in paragraph 113(1).

[(2) In this paragraph, "insurance" has the same meaning as in paragraph 113.]

**Compliance with legislation and guidance****115**

The contractor shall--

- (a) comply with all relevant legislation; and
- [(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].

### **Third party rights**

#### **116**

The agreement shall not create any right enforceable by any person not a party to it.

### **Gifts**

#### **117**

- (1) The contractor shall keep a register of gifts which--
  - (a) are given to any of the persons specified in sub-paragraph (2) by or on behalf of--
    - (i) a patient,
    - (ii) a relative of a patient, or
    - (iii) any person who provides or wishes to provide services to the contractor or its patients in connection with the agreement; and
  - (b) have, in its reasonable opinion, an individual value of more than £100.00.
- (2) The persons referred to in sub-paragraph (1) are--
  - (a) the contractor;
  - (b) where the agreement is with a qualifying body--
    - (i) any person [both] legally and beneficially owning a share in the body, or
    - (ii) a director or secretary of the body;
  - (c) any person employed by the contractor for the purposes of the agreement;
  - (d) any general medical practitioner engaged by the contractor for the purposes of the agreement;
  - (e) any spouse [or civil partner] of a contractor (where the contractor is an individual) or of a person specified in paragraphs (b) to (d); or
  - (f) any person (whether or not of the opposite sex) whose relationship with a contractor (where the contractor is an individual) or with a person specified in paragraphs (b) to (d) has the characteristics of the relationship between husband and wife.
- (3) Sub-paragraph (1) does not apply where--
  - (a) there are reasonable grounds for believing that the gift is unconnected with services provided or to be provided by the contractor;
  - (b) the contractor is not aware of the gift; or
  - (c) the contractor is not aware that the donor wishes to provide services to the contractor.

(4) The contractor shall take reasonable steps to ensure that it is informed of gifts which fall within sub-paragraph (1) and which are given to the persons specified in sub-paragraph (2)(b) to (f).

(5) The register referred to in sub-paragraph (1) shall include the following information--

- (a) the name of the donor;
- (b) in a case where the donor is a patient, the patient's National Health Service number or, if the number is not known, his address;
- (c) in any other case, the address of the donor;
- (d) what the gift is;
- (e) the estimated value of the gift; and
- (f) the name of the person or persons who received the gift.

(6) The contractor shall make the register available to [the Board] on request.

## **NOTES**

### **Initial Commencement**

#### ***Specified date***

Specified date: 1 April 2004: see reg 1(1).

### **Extent**

These Regulations apply to England only: see reg 1(2).

### **Amendment**

Para 112: in sub-para (1) words from "which shall include" to "of controlled drugs" in square brackets inserted by SI 2007/3491, reg 7(o).

Date in force: 28 January 2008: see SI 2007/3491, reg 1(1).

Para 112A (as inserted by SI 2007/3491, reg 7(p)): substituted by SI 2013/363, regs 30, 50(1), (76).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 112B: inserted by SI 2013/363, regs 30, 50(1), (77).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 113: in sub-para (3)(b) words from "a person employed" to "which that person" in square brackets substituted by SI 2004/2694, reg 15(1), (20).

Date in force: 15 November 2004: see SI 2004/2694, reg 1(1).

Para 114: sub-para (1) numbered as such by SI 2005/893, reg 8(1), (24)(a).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).



Para 114: sub-para (2) inserted by SI 2005/893, reg 8(1), (24)(b).

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

Para 115: sub-para (b) substituted by SI 2013/363, regs 30, 50(1), (78).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 117: in sub-para (2)(b)(i) word "both" in square brackets inserted by SI 2013/363, regs 30, 50(1), (79)(a).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 117: in sub-para (2)(e) words "or civil partner" in square brackets inserted by SI 2005/3315, reg 13(1), (9).

Date in force: 6 January 2006: see SI 2005/3315, reg 1(1).

Para 117: in sub-para (6) words "the Board" in square brackets substituted by SI 2013/363, regs 30, 50(1), (79)(b).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 6 . . .

**SCHEDULE 6**

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**NOTES**

**Amendment**

Revoked by SI 2013/363, regs 30, 47.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

...

**NOTES**

**Amendment**

Revoked by SI 2013/363, regs 30, 47.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

...

## NOTES

### Amendment

Revoked by SI 2013/363, regs 30, 47.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 7 . . .

## SCHEDULE 7

...

## NOTES

### Amendment

Revoked by SI 2013/363, regs 30, 51.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

...

## NOTES

### Amendment

Revoked by SI 2013/363, regs 30, 51.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

...

## NOTES

**Extent**

These Regulations apply to England only: see reg 1(2).

**Amendment**

Revoked by SI 2013/363, regs 30, 51.

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 8 . . .

**SCHEDULE 8**

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**NOTES**

**Amendment**

Revoked by SI 2012/970, reg 13.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

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**NOTES**

**Amendment**

Revoked by SI 2012/970, reg 13.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

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**NOTES**

**Amendment**

Revoked by SI 2012/970, reg 13.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 9 . . .

**SCHEDULE 9**

...

**NOTES**

**Amendment**

Revoked by SI 2005/893, reg 9.

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

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**NOTES**

**Amendment**

Revoked by SI 2005/893, reg 9.

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

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**NOTES**

**Amendment**

Revoked by SI 2005/893, reg 9.

Date in force: 14 April 2005: see SI 2005/893, reg 1(1).

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/SCHEDULE 10 Information to be Included in a Contractor's Leaflet

**SCHEDULE 10**

**INFORMATION TO BE INCLUDED IN A CONTRACTOR'S LEAFLET**

**Schedule 5, paragraph 72**

A contractor's leaflet shall include--

**1**

The name of the party or parties comprising the contractor.

**2**

In the case of an agreement where a qualifying body is a party--

- (a) the names of the directors, the company secretary and the shareholders of that body; and
- (b) the address of that body's registered office.

**3**

The full name of each person performing services under the agreement.

**4**

In the case of each health care professional performing services under the agreement, his professional qualifications.

**5**

Whether the contractor undertakes the teaching or training of health care professionals or persons intending to become health care professionals.

**[6**

Where the contractor provides essential services in its practice area, including the area known as the outer boundary area (within the meaning given in regulation 11(1A)), by reference to a sketch diagram, plan or postcode.]

**7**

The address of each of the contractor's premises.

**8**

The contractor's telephone and fax number and the address of its website (if any).

**9**

Whether the contractor's premises have suitable access for disabled patients and, if not, the alternative arrangements for providing services to such patients.

**10**

How to register as a patient.

**11**

The right of patients to express a preference of practitioner in accordance with paragraph 17 of Schedule 5 and the means of expressing such a preference.

**12**

The services available under the agreement.

**13**

The opening hours of the contractor's premises and the method of obtaining access to services throughout the core hours.

**14**

The criteria for home visits and the method of obtaining such a visit.

**15**

The arrangements for services in the out of hours period (whether or not provided by the contractor) and how the patient may access such services.

**[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.]

**17**

...

**18**

...

**19**

The method by which patients are to obtain repeat prescriptions.

**20**

If the contractor offers repeatable prescribing services, the arrangements for providing such services.

**21**

If the contractor is a dispensing contractor, the arrangements for dispensing prescriptions.

**22**

How patients may make a complaint or comment on the provision of services.

**23**

The rights and responsibilities of the patient, including keeping appointments.

**24**

The action that may be taken where a patient is violent or abusive to a party to the agreement who is an individual, any member of the contractor's staff or other persons present on the contractor's premises or in the place where treatment is provided under the agreement.

**25**

Details of who has access to patient information (including information from which the identity of the individual can be ascertained) and the patient's rights in relation to disclosure of such information.

**[26**

The full name, postal and email address and telephone number of the Board.]

**27**

...

**NOTES**

**Initial Commencement**

*Specified date*

Specified date: 1 April 2004: see reg 1(1).

**Extent**

These Regulations apply to England only: see reg 1(2).

**Amendment**

Para 6: substituted by SI 2012/970, reg 14.

Date in force: 30 April 2012: see SI 2012/970, reg 1(1).

Para 16: substituted by SI 2013/363, regs 30, 52(1), (2).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Paras 17, 18: revoked by SI 2013/363, regs 30, 52(1), (3).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 26: substituted by SI 2013/363, regs 30, 52(1), (4).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Para 27: revoked by SI 2013/363, regs 30, 52(1), (3).

Date in force: 1 April 2013: see SI 2013/363, reg 1(1); for transitional provisions see reg 53, Sch 2 thereto.

Document information
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004

UK Parliament SIs 2000-2009/2004/601-650/National Health Service (Personal Medical Services Agreements) Regulations 2004 (SI 2004/627)/EXPLANATORY NOTE

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations set out, for England, the framework for personal medical services agreements under section 28C of the National Health Service Act 1977 ("the Act").

Part 2 of the Regulations prescribes the conditions which, in accordance with section 28D of the Act, must be met by a contractor before the relevant body may enter into a personal medical services agreement with it.

Part 3 of the Regulations prescribes the procedure for pre-agreement dispute resolution, in accordance with section 28E(3D) of the Act. Part 3 applies to cases where the contractor is not a health service body. In cases where the contractor is such a body, the procedure for dealing with pre-agreement disputes is set out in section 4 of the National Health Service and Community Care Act 1990 ("the 1990 Act").

Part 4 of the Regulations provides for a contractor to be a health service body for the purposes of section 4 of the 1990 Act unless it objects by serving a notice on the relevant body before the agreement is made.

Part 5 of (and Schedules 2 to 5, and 7 to 10 to) the Regulations prescribe the terms which, in accordance with section 28E of the Act, must be included in a personal medical services agreement.

The prescribed terms include terms relating to--

- (a) the type of agreement (regulation 10);
- (b) the manner in which services are to be provided (Part 1 of Schedule 5) and the procedures for opting out of out of hours services (regulation 16 and Schedule 4);
- (c) the issuing of medical certificates (regulation 12 and Schedule 2);
- (d) finance, fees and charges (regulations 13 to 15 and Schedule 3);
- (e) patient registration and removal, list closures and assignments (Schedule 5, Part 2 and Schedules 7 and 8);
- (f) prescribing and dispensing (Schedule 5, Part 3 and Schedule 9);
- (g) the conditions to be met by those who perform services or are employed or engaged by the contractor (Schedule 5, Part 4);
- (h) patient records, the provision of information and rights of entry (Schedule 5, Part 5 and Schedule 10);
- (i) complaints (Schedule 5, Part 6);
- (j) procedures for dispute resolution (Schedule 5, Part 7); and
- (k) procedures for variation and termination of agreements and consequences of termination of the agreement (regulation 17 and Schedule 5, Part 8).



Part 6 of the Regulations provides for a contractor to terminate its agreement and enter into a general medical services contract.

Part 7 of the Regulations and Schedule 6 makes transitional provision.

<b>Document information</b>
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National Health Service (Personal Medical Services Agreements) Regulations 2004

**Date made**

08/03/2004