



Health and Social Care Act 2012

2012 CHAPTER 7

PART 6

PRIMARY CARE SERVICES

202 Medical services: minor amendments

- (1) In section 86 of the National Health Service Act 2006 (persons eligible to enter into general medical services contracts), in subsection (3), in paragraphs (a) and (b), before “legally and beneficially” insert “both”.
- (2) In section 89 of that Act (general medical services contracts: required terms), in subsection (3), for “may make” substitute “must make”.
- (3) In section 93 of that Act (persons with whom arrangements may be made under section 92 of that Act for the provision of primary medical services), in the definition of “qualifying body” in subsection (3), before “legally and beneficially” insert “both”.

203 Persons eligible to enter into general dental services contracts

- (1) Section 102 of the National Health Service Act 2006 (persons eligible to enter into general dental services contracts) is amended as follows.
- (2) In subsection (1), in paragraph (c), for “individuals” substitute “persons”.
- (3) After that subsection insert “,
 - (d) a limited liability partnership where the conditions in subsection (2A) are satisfied.”
- (4) In subsection (2), for paragraph (b) substitute—
 - “(b) subsection (3A) or (3B) applies.”
- (5) After that subsection insert—
 - “(2A) The conditions referred to in subsection (1)(d) are that—
 - (a) at least one member is a dental practitioner, and

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(b) subsection (3A) or (3B) applies.”

(6) After subsection (3) insert—

“(3A) This subsection applies if a partner or member who is a dental practitioner, or who falls within subsection (3C), has the power to secure that the partnership’s affairs are conducted in accordance with that partner’s or member’s wishes.

(3B) This subsection applies if, in any combination of partners or members who, acting together, have the power (or who, if they were to act together, would have the power) to secure that the partnership’s affairs are conducted in accordance with their wishes, at least one of them is a dental practitioner or a person who falls within subsection (3C).”

(7) After subsection (3B) insert—

“(3C) A person falls within this subsection if the person is—

- (a) an NHS employee,
- (b) a section 92 employee, section 107 employee, section 50 employee, section 64 employee, section 17C employee or Article 15B employee,
- (c) a health care professional who is engaged in the provision of services under this Act or the National Health Service (Wales) Act 2006, or
- (d) an individual falling within section 108(1)(d).”

204 Arrangements under section 107 of the National Health Service Act 2006

(1) Section 108 of the National Health Service Act 2006 (persons with whom section 107 arrangements may be made) is amended as follows.

(2) In subsection (1)—

- (a) before “make an agreement” insert “, subject to such conditions as may be prescribed,”,
- (b) in each of paragraphs (b) and (c), omit “who meets the prescribed conditions”,
- (c) for paragraph (f) substitute—
 - “(f) a dental corporation,”, and
- (d) after paragraph (f) insert—
 - “(fa) a company limited by shares where the conditions in subsection (1A) are satisfied,
 - (fb) a limited liability partnership where subsection (1B) or (1C) applies.”.

(3) After subsection (1) insert—

“(1A) The conditions referred to in subsection (1)(fa) are that—

- (a) every person who owns a share in the company owns it both legally and beneficially, and
- (b) it is not possible for two or more members of the company who are not persons who fall within subsection (1)(a) to (e) to hold the majority of the voting rights conferred by shares in the company on any matter on which members have such rights.”

(4) After subsection (1A) insert—

“(1B) This subsection applies if a member of the partnership who falls within subsection (1)(a) to (e) has the power to secure that the partnership’s affairs are conducted in accordance with that member’s wishes.

(1C) This subsection applies if, in any combination of members of the partnership who, acting together, have the power (or who, if they were to act together, would have the power) to secure that the partnership’s affairs are conducted in accordance with their wishes, at least one of them falls within subsection (1)(a) to (e).”

(5) Omit subsection (2).

(6) In subsection (3)—

(a) at the appropriate place insert—

““dental corporation”” means a body corporate which is carrying on the business of dentistry in accordance with the Dentists Act 1984,” and

(b) omit the definition of “qualifying body”.

205 Payments in respect of costs of sight tests

(1) Section 180 of the National Health Service Act 2006 (payments in respect of costs of optical appliances) is amended as follows.

(2) In subsection (3), before paragraph (a) insert—

“(za) provide for payments to be made by the Board to meet, or to contribute towards, any cost accepted by the Board as having been incurred for the cost of a sight test of a person who—

(i) falls within section 115(2)(c), but

(ii) at the time of the test has not been issued with a notice by the Secretary of State of entitlement to receive assistance in respect of the cost of a sight test (or has been issued with such a notice but has yet to receive it).”

(3) After that subsection insert—

“(3A) The amount of a payment by virtue of subsection (3)(za) or (a) must not exceed the amount for the time being set in regulations under this section as the applicable fee in the case in question for the provision of the sight-testing service under section 115(1)(a).”

206 Pharmaceutical needs assessments

(1) In section 128A of the National Health Service Act 2006 (pharmaceutical needs assessments), in subsections (1), (2)(c) and (d) and (3)(b) and (d), for “Primary Care Trust” substitute “Health and Wellbeing Board”.

(2) In section 24 of that Act (plans for improving health etc.), at the end of subsection (8)(a) (but before the following “, and”) insert “(other than pharmaceutical services or local pharmaceutical services)”.

(3) In section 24A of that Act (report on consultation), in subsection (2), for “Parts 4 to 7” substitute “Parts 4 to 6”.

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

- (4) In section 242 of that Act (public involvement and consultation), in subsection (1F), after “(1E),” insert “—
- (a) health services” does not include pharmaceutical services or local pharmaceutical services, and
 - (b)”.
- (5) In section 242A of that Act (Strategic Health Authorities: further duty to involve users), at the end of subsection (2) add “; and for that purpose “health services” does not include pharmaceutical services or local pharmaceutical services”.

207 Control of entry on pharmaceutical lists

- (1) Section 129 of the National Health Service Act 2006 (regulations as to pharmaceutical lists) is amended as follows.
- (2) In subsection (2), in paragraph (c)—
- (a) for “must be granted if” substitute “may be granted only if”, and
 - (b) omit the words from “and may otherwise” to the end.
- (3) After that subsection insert—
- “(2ZA) The Board may not include the Secretary of State, or such other persons as the regulations may prescribe, in a list prepared for the purposes of provision under subsection (2)(a).”
- (4) In subsection (2A)—
- (a) for “its needs statement” substitute “the needs statement for the relevant area”, and
 - (b) for the words from “it is necessary” to the end substitute “to grant the application would—
 - (a) meet a need in that area for the services or some of the services specified in the application, or
 - (b) secure improvements, or better access, to pharmaceutical services in that area.”
- (5) For subsection (2B) substitute—
- “(2B) In subsection (2A), “relevant area”, in relation to a needs statement, is the area of the Health and Wellbeing Board which includes the premises from which the application states that the applicant will undertake to provide services.”
- (6) In subsection (2C), for “(2B)” substitute “(2A)”.
- (7) In subsection (4)(c), omit “or (2B)”.
- (8) In subsection (6)(g)—
- (a) after “grounds on which” insert “or circumstances in which”,
 - (b) before “may, or must,” insert “—
 - (i),
 - and - (c) at the end insert “,
 - (ii) may, or must, remove a person or an entry in respect of premises from a pharmaceutical list”.

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

- (9) In subsection (10B), for “Primary Care Trust” substitute “Health and Wellbeing Board”.
- (10) In section 130(2) of that Act (regulations about appeals from decisions on applications for inclusion in pharmaceutical list)—
- (a) after “an application” insert “on grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153”, and
 - (b) omit “(by way of redetermination)”.
- (11) In section 136 of that Act (designation of priority neighbourhoods or premises)—
- (a) in subsections (1)(a) and (2)(a) and (b), for “neighbourhoods” substitute “relevant areas”, and
 - (b) after subsection (3) insert—
“*(4) Relevant area*” has the same meaning as in section 129(2A).”
- (12) In Schedule 12 to that Act (provision of local pharmaceutical services under LPS schemes), in paragraph 2—
- (a) in sub-paragraphs (1)(a) and (2)(a) and (b), for “neighbourhoods” substitute “relevant areas”, and
 - (b) after sub-paragraph (3) insert—
“*(4) Relevant area*” has the same meaning as in section 129(2A).”

208 Lists of performers of pharmaceutical services and assistants etc.

- (1) Omit the following provisions of the National Health Service Act 2006—
- (a) section 146 (lists of persons performing local pharmaceutical services) and the preceding cross-heading,
 - (b) section 149 (supplementary lists), and
 - (c) section 150 (further provision about supplementary lists).
- (2) After section 147 of that Act insert—

“CHAPTER 4A

LISTS OF PERFORMERS OF PHARMACEUTICAL SERVICES AND ASSISTANTS

147A Performers of pharmaceutical services and assistants

- (1) Regulations may make provision for the preparation, maintenance and publication by the Board of one or more lists of—
- (a) persons approved by the Board for the purpose of assisting in the provision of pharmaceutical services which the Board arranges;
 - (b) persons approved by the Board for the purpose of performing local pharmaceutical services.
- (2) The regulations may, in particular, provide that—
- (a) a person of a prescribed description may not assist in the provision of pharmaceutical services which the Board arranges unless the person is included in a list prepared by virtue of subsection (1)(a),

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- (b) a person of a prescribed description may not perform local pharmaceutical services unless the person is included in a list prepared by virtue of subsection (1)(b).
- (3) The regulations may, in particular, also include provision as to—
- (a) the preparation, maintenance and publication of a list,
 - (b) eligibility for inclusion in a list,
 - (c) applications for inclusion (including provision for the procedure for applications and the documents to be supplied on application, whether by the applicant or by arrangement with the applicant),
 - (d) the grounds on which an application for inclusion may or must be granted or refused or on which a decision on such an application may be deferred,
 - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits),
 - (f) the grounds on which the Board may or must suspend or remove a person from a list, the procedure for doing so, and the consequences of doing so,
 - (g) circumstances in which a person included in a list may not withdraw from it,
 - (h) payments to or in respect of a person suspended from a list (including provision for the amount of the payment, or the method of calculating it, to be determined by the Secretary of State or a person appointed by the Secretary of State),
 - (i) the supply to the Board by an applicant for inclusion in a list, or by a person included in a list, of a criminal conviction certificate under section 112 of the Police Act 1997, a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
 - (j) the criteria to be applied in making decisions under the regulations,
 - (k) appeals against decisions made by the Board under the regulations, and
 - (l) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals,
- and may make any provision corresponding to anything in sections 151 to 159.
- (4) Regulations under this section may, in particular, also provide that approval for the purposes of either paragraph (a) or paragraph (b) of subsection (1) is to be treated for the purposes of this section as approval for the purposes of the other paragraph (and for lists prepared by virtue of that subsection to be read accordingly).
- (5) Regulations under this section may, in particular, also provide for—
- (a) a person's inclusion in a list to be subject to conditions determined by the Board,
 - (b) the Board to vary the conditions or impose different ones,
 - (c) the consequences of failing to comply with a condition (including suspension or removal from a list),
 - (d) the review by the Board of decisions made by it by virtue of the regulations.

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- (6) The imposition of such conditions must be with a view to—
 - (a) preventing any prejudice to the efficiency of the services to which a list relates, or
 - (b) preventing any acts or omissions of the type described in section 151(3)(a).
- (7) If the regulations provide under subsection (3)(f) or (5) that the Board may suspend or remove a person (P) from a list, they must include provision—
 - (a) requiring P to be given notice of any allegation against P,
 - (b) giving P the opportunity of putting P’s case at a hearing before the Board makes any decision as to P’s suspension or removal, and
 - (c) requiring P to be given notice of the decision of the Board, the reasons for it and any right of appeal under subsection (8) or (9).
- (8) If the regulations provide under subsection (3)(d) or (f) that the Board may refuse a person’s application for inclusion in a list, or remove a person from one, the regulations must provide for an appeal to the First-tier Tribunal against the decision of the Board.
- (9) If the regulations make provision under subsection (5), they must provide for an appeal by the person in question to the First-tier tribunal against the decision of the Board—
 - (a) to impose conditions, or any particular condition,
 - (b) to vary a condition,
 - (c) to remove the person from the list for breach of condition,
 - (d) on any review of an earlier such decision of the Board.
- (10) Regulations making provision as to the matters referred to in subsection (3) (l) may, in particular, authorise the disclosure of information—
 - (a) by the Board to the Secretary of State, and
 - (b) by the Secretary of State to the Board.

147B Further provision about regulations under section 147A

- (1) Regulations under section 147A may require a person (A) included in—
 - (a) a pharmaceutical list, or
 - (b) a list under section 132(3) (provision of drugs, medicines or listed appliances),not to employ or engage a person (B) to assist A in the provision of the service to which the list relates unless B is included in a list mentioned in subsection (2).
- (2) The lists are—
 - (a) a list referred to in subsection (1),
 - (b) a list under section 147A,
 - (c) a list under section 91, 106 or 123,
 - (d) a list corresponding to a list under section 91 prepared by the Board by virtue of regulations made under section 145,

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- (e) a list corresponding to a list mentioned in any of paragraphs (a) to (d) prepared by a Local Health Board under or by virtue of the National Health Service (Wales) Act 2006,
or, in any of the cases in paragraphs (a) to (e), such a list of a prescribed description.
- (3) If regulations do so require, they may, in particular, require that both A and B be included in lists prepared by the Board.”
- (3) For the heading of Chapter 5 of Part 7 of that Act substitute “Conditional inclusion in pharmaceutical lists”.
- (4) In section 159 of that Act (national disqualification), in subsection (1)—
 - (a) omit paragraph (b), and
 - (b) in paragraph (d), for “section 146” substitute “section 147A”.
- (5) In section 276 of that Act (index of defined expressions), omit the entry for “supplementary list”.
- (6) In Schedule 17 to that Act (exempt information relating to health services), in paragraph 13(1)(b), for “146” substitute “147A”.
- (7) Regulations under section 146 or 149 of that Act having effect immediately before the commencement of subsection (1) of this section are, despite the repeals made by that subsection, to continue to have effect as if they had been made under section 147A of that Act (as inserted by subsection (2) of this section).