

**2021 No. 995**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (General Medical Services  
Contracts and Personal Medical Services Agreements)  
(Amendment) (No. 2) Regulations 2021**

*Made* - - - - at 8.30 a.m. on 7th September 2021

*Laid before Parliament* at 1.00 p.m. on 7th September 2021

*Coming into force* - - on 1st October 2021

The Secretary of State makes these Regulations in exercise of the powers in sections 85(1), 89(1), (2)(a) and (c) and (3), 94(1) and 272(7) and (8) of the National Health Service Act 2006(a).

**Citation, commencement, extent and application**

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 2) Regulations 2021.

(2) These Regulations come into force on 1st October 2021.

(3) These Regulations extend to England and Wales, and apply in relation to England only.

**Amendment of the National Health Service (General Medical Services Contracts) Regulations 2015**

2. The National Health Service (General Medical Services Contracts) Regulations 2015(b) are amended in accordance with Schedule 1.

**Transitional provisions in connection with regulation 2**

3. A reference in any enactment, or directions made under the National Health Service Act 2006, to additional services within the meaning of the National Health Service (General Medical Services Contracts) Regulations 2015 has effect on and after 1st October 2021 as a reference to minor surgery within the meaning of regulation 3 of those Regulations, as amended by these Regulations.

---

(a) 2006 c. 41. Section 94 was amended by section 28 of, and paragraph 38 of Schedule 4 to, the Health and Social Care Act 2012 (c. 7) and by paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c. 22). There are amendments to sections 89 and 272 but none is relevant to these Regulations. “Prescribed” and “regulations” are defined in section 275 of the National Health Service Act 2006.

(b) S.I. 2015/1862.

**Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2015**

4. The National Health Service (Personal Medical Services Agreements) Regulations 2015(a) are amended in accordance with Schedule 2.

At 8.30 a.m. on 7th September 2021

*Jo Churchill*  
Parliamentary Under Secretary of State  
Department of Health and Social Care

**SCHEDULE 1**

Regulation 2

**Amendment of the National Health Service (General Medical Services Contracts) Regulations 2015**

**PART 1**

**Disclosure of information about NHS earnings**

**Disclosure of information about NHS earnings**

1. After regulation 27 insert—

**“Disclosure of information about NHS earnings: contractors and sub-contractors**

**27A.**—(1) A contract which is with a contractor who is an individual medical practitioner or a partnership must contain the term specified in paragraph (2).

(2) The term is—

- (a) if the contract is with a contractor who is an individual medical practitioner, a term which requires the contractor to comply with the disclosure obligation for each relevant financial year in which—
  - (i) they are a contractor, and
  - (ii) their NHS earnings exceed the relevant threshold;
- (b) if the contract is with a contractor who is partnership, a term which requires each partnership member to comply with the disclosure obligation for each relevant financial year in which—
  - (i) the partnership is a contractor, and
  - (ii) the partnership member’s NHS earnings exceed the relevant threshold.

(3) In this regulation—

- (a) the disclosure obligation, in relation to a relevant financial year, is the requirement for an individual (“I”) to submit the following information for publication to the Health and Social Care Information Centre(b) by the disclosure date—
  - (i) I’s name,

---

(a) S.I. 2015/1879.

(b) The Health and Social Care Information Centre (known as NHS Digital) is a body corporate established under section 252(1) of the Health and Social Care Act 2012. The information must be submitted to NHS Digital through its Strategic Data Collection Service, available at <https://datacollection.sdcs.digital.nhs.uk>.

- (ii) I’s job title,
- (iii) the details of each organisation from which I has derived NHS earnings in that financial year, and
- (iv) the amount of I’s NHS earnings for that financial year;
- (b) “relevant financial year” means a financial year<sup>(a)</sup> ending—
  - (i) on or after 31st March 2020, but
  - (ii) on or before 31st March 2024;
- (c) “relevant threshold” means—
  - (i) for the financial year ending on 31st March 2020, £150,000;
  - (ii) for the financial year ending on 31st March 2021, £153,000;
  - (iii) for the financial year ending on 31st March 2022, £156,000;
  - (iv) for the financial year ending on 31st March 2023, £159,000;
  - (v) for the financial year ending on 31st March 2024, £163,000.
- (4) For the purposes of paragraph (3)(a) “the disclosure date” is—
  - (a) in relation to the financial year ending 31st March 2020, 12th November 2021;
  - (b) in relation to any subsequent financial year, 30th April in the financial year which begins immediately after the end of the next financial year.
- (5) For the purposes of paragraph (4) “the next financial year”, in relation to a financial year (“FY1”), is the financial year which begins immediately after the end of FY1 (this means, for example, that “the next financial year”, in relation to the financial year ending 31st March 2021, is the financial year ending 31st March 2022).
- (6) A contract must also include a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the contract unless—
  - (a) where the sub-contractor is an individual, the sub-contract entered into by the contractor requires the individual to comply with the disclosure obligation for each relevant financial year in which the individual’s NHS earnings exceed the relevant threshold;
  - (b) where the sub-contractor is a partnership, the sub-contract entered into by the contractor requires each sub-contractor partnership member to comply with the disclosure obligation for each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant financial threshold;
  - (c) in all cases, the sub-contract prohibits the sub-contractor (“S”) from sub-contracting, where permitted by paragraph 44(9A) of Schedule 3, any of the clinical services S has agreed with the contractor to provide under the sub-contract unless—
    - (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation for each financial year in which I’s NHS earnings exceed the relevant threshold;
    - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member of that partnership to comply with the disclosure obligation for each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant threshold.
- (7) A contract must also include a term requiring the contractor to use reasonable endeavours to ensure that any relevant sub-contract is amended to contain the terms specified in paragraph (9).
- (8) For the purposes of paragraph (7) “relevant sub-contract” means a sub-contract—

---

(a) “Financial year” is defined in section 275(1) of the National Health Service Act 2006.

- (a) for the provision of any of the clinical services which the contractor is required to provide under the contract by any other person, and
- (b) which is in force at the time when this regulation comes into force.

(9) The terms are—

- (a) a term which requires—
  - (i) the sub-contractor (“S”), where S is an individual, or
  - (ii) each sub-contractor partnership member, where S is a partnership,
 to comply with the disclosure obligation for each relevant financial year in which the individual’s, or as the case may be, sub-contractor partnership member’s NHS earnings exceed the relevant threshold, and
- (b) a term which prevents S from sub-contracting obligations to provide clinical services under the contract, where permitted by paragraph 44(9A) of Schedule 3, unless—
  - (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation in relation to each financial year in which I’s earnings exceed the relevant threshold;
  - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member of that partnership to comply with the disclosure obligation in relation to each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant threshold.

(10) Nothing in paragraph (6), (7) or (9) requires any individual to comply with the disclosure obligation for any relevant financial year which—

- (a) ends before the individual or partnership (as the case may be) enters into a sub-contract with the contractor or a sub-contractor;
- (b) begins after the individual’s, or, as the case may be, partnership’s, sub-contract with the contractor or sub-contractor has terminated.

(11) In this regulation—

“locum practitioner” has the meaning given in Schedule 15 to the National Health Service Pension Scheme Regulations 2015(a);

“NHS earnings” has the meaning given in regulation 27B;

“partnership member”, in relation to a contractor who is a partnership, means an individual who is a partner in that partnership;

“sub-contractor” means a person to whom any rights or duties under the contract in relation to clinical matters are, or have been, sub-contracted under paragraph 44(1) of Schedule 3, and includes an individual who is a locum practitioner;

“sub-contractor partnership member”, in relation to a sub-contractor who is a partnership, means an individual who is a partner in that partnership.

### **Calculation of NHS earnings for the purposes of regulation 27A**

**27B.**—(1) This regulation sets out how an individual’s NHS earnings are to be calculated for the purposes of regulation 27A.

(2) An individual’s NHS earnings for a relevant financial year are those earnings which constitute relevant income in respect of that financial year.

(3) In this regulation “relevant income”—

---

(a) S.I. 2015/94.

- (a) in relation to an individual who is an active member of the Scheme and is a medical practitioner (other than a locum practitioner) or a non-GP provider, means income (including any form of remuneration and any salary, wages, fees, director’s remuneration or dividends) which is practitioner income as determined under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), in respect of the financial year in question;
  - (b) in relation to a person (“P”) who is an active member of the Scheme and a locum practitioner, means—
    - (i) any income which is locum practitioner income as determined under paragraph 7 of Schedule 10 to the NHS Pension Scheme Regulations in respect of the financial year in question, and
    - (ii) any income (including any form of remuneration and salary, wages, fees, director’s remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), if P had been a medical practitioner but not a locum practitioner;
  - (c) in relation to any other person (“P”), means income (including any form of remuneration and any salary, wages, fees, director’s remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), if P had been—
    - (i) an active member of the Scheme, and
    - (ii) a medical practitioner or non-GP provider.
- (4) For the purposes of determining a person’s relevant income under paragraph (3)(a), (b)(ii) or (c), Schedule 10 to the NHS Pensions Regulations applies as if the following provisions of that Schedule were omitted—
- (a) paragraph 2(1)(b) and the “and” immediately preceding it,
  - (b) paragraph 3, and
  - (c) paragraph 7.

(5) In this regulation—

“the NHS Pension Scheme Regulations” means the National Health Service Pension Scheme Regulations 2015<sup>(a)</sup> and “active member”, “locum practitioner”, “medical practitioner”, “member” and “non-GP provider” have the meanings given for the purposes of those Regulations;

“relevant financial year” has the meaning given in regulation 27A;

“the Scheme” means the National Health Service Pension Scheme established by the NHS Pension Scheme Regulations.”.

## PART 2

### List of Patients: Crown servants posted overseas and their family members

#### **Registration of patients: Crown servants posted overseas and their family members**

**2.** In regulation 3(1)(b)—

- (a) after the definition of “appliance”, insert—

---

(a) S.I. 2015/94.

(b) Regulation 3 was amended by S.I. 2021/331. There are other amending instruments but none is relevant.

““appropriate person”—

- (a) in relation to a person who has not attained the age of 16 years, means a person mentioned in paragraph 18(4)(a)(i), (ii) or (iii) of Schedule 3;
- (b) in relation to a person who lacks capacity—
  - (i) to make an application or provide information to, to accept an offer from, or otherwise communicate with, the contractor, or
  - (ii) to authorise the making of an application or provision of information to, the acceptance of an offer from, or other communication with, the contractor on their behalf,

means a person mentioned in paragraph 18(4)(b)(i), (ii), (iii) or (iv) of Schedule 3;”;

(b) in the definition of “child”, after ““child”” insert “, other than in Part 2A of Schedule 3,”;

(c) for the definition of “temporary resident” substitute—

““temporary resident” means a person—

- (a) accepted by the contractor as a temporary resident under paragraph 20, 32E or 32G of Schedule 3, and
- (b) for whom the contractor’s responsibility has not terminated under paragraph 20, 32E or 32G (as the case may be) of Schedule 3.”.

**3.—**(1) Regulation 17(a) is amended as follows.

(2) In paragraph (10)—

- (a) in sub-paragraph (a), for “paragraph 21” substitute “paragraph 21, 32D or 32F”;
- (b) in sub-paragraph (b), for “paragraph 21” substitute “paragraph 21, 32E or 32G”.

(3) In paragraph (11)—

- (a) in sub-paragraph (a), for “date on which that person’s application was refused” substitute “relevant date”;
- (b) in sub-paragraph (b), for “date on which that person’s application was rejected” substitute “relevant date”.

(4) After paragraph (11) insert—

“(11A) For the purposes of paragraph (11) “relevant date”—

- (a) if the person’s application is refused in accordance with paragraph 32D, 32E, 32F or 32G of Schedule 3, means the later of—
  - (i) the date on which the application is refused, and
  - (ii) the date on which the person returns to the United Kingdom;
- (b) if the person’s application is refused in accordance with paragraph 21 of Schedule 3, means the date on which the application is refused.”.

**4. In Schedule 3(b)—**

- (a) in paragraph 17(1), for “paragraph 18” substitute “paragraph 18, 19, 19A, 32D or 32F”;
- (b) in paragraph 18, after sub-paragraph (6) insert—

“(7) This paragraph is subject to Part 2A.”;
- (c) in paragraph 20, after sub-paragraph (4) insert—

“(5) This paragraph is subject to Part 2A.”;
- (d) in paragraph 22, for “18 or 20” substitute “18, 20, 32D, 32E, 32F or 32G”;
- (e) after paragraph 32 insert—

---

(a) There are amendments to regulation 17 but none is relevant.

(b) There are amendments to Schedule 3 but none is relevant.

## “PART 2A

### List of patients: Crown servants posted overseas and their family members

#### CHAPTER 1

##### Interpretation of Part 2A

#### Meaning of “qualifying person”

**32A.**—(1) A person (“P”) is a qualifying person for the purposes of this Part of this Schedule if—

- (a) P is returning, or has returned, to the United Kingdom, and
- (b) sub-paragraph (2), (3), (4) or (5) applies to P.

#### *Civil servants posted overseas*

(2) This sub-paragraph applies to P if—

- (a) P is a civil servant who is, or, immediately before their return to the United Kingdom, was, posted overseas, or
- (b) where P is returning, or has returned, to the United Kingdom for more than three months, P—
  - (i) was a civil servant who was posted overseas, and
  - (ii) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a civil servant.

#### *Family members of Crown servants posted overseas*

(3) This sub-paragraph applies to P if P—

- (a) is a relevant family member of a person to whom sub-paragraph (2) applies (“R”), and
- (b) is, or, immediately before their return to the United Kingdom, was, accompanying R on the posting mentioned in that sub-paragraph.

(4) This sub-paragraph applies to P if P—

- (a) is a relevant family member of a civil servant (“C”) who—
  - (i) is posted overseas, or
  - (ii) where C is deceased, was at the time of their death posted overseas, and
- (b) is, or, immediately before their return to the United Kingdom, was, accompanying C on the posting mentioned in paragraph (a).

(5) This sub-paragraph applies to P if—

- (a) P is a relevant family member of a person (“M”) who—
  - (i) is a member of the armed forces of the Crown who is, or, immediately before their return to the United Kingdom, was, posted overseas,
  - (ii) where M is returning, or has returned, to the United Kingdom for more than three months—
    - (aa) was a member of the armed forces of the Crown who was posted overseas, and
    - (bb) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a member of those forces, or
  - (iii) where M is deceased, was at the time of their death a member of the armed forces of the Crown posted overseas, and
- (b) P is, or, immediately before their return to the United Kingdom, was, accompanying M on the posting mentioned in paragraph (a).

(6) In this paragraph—

“civil servant” means a person employed in the civil service of the State;

“Crown servant” means—

- (a) a civil servant, or
- (b) a member of the armed forces of the Crown.

(7) For the purposes of this paragraph “relevant family member”, in relation to a Crown servant (including a Crown servant who is deceased) (“C”), means—

- (a) C’s spouse or civil partner;
- (b) a person whose relationship with C has the characteristics of a relationship between spouses or civil partners;
- (c) C’s former spouse or former civil partner;
- (d) a person whose relationship with C had the characteristics of a relationship between spouses or civil partners but which has ended (for any reason);
- (e) C’s widow, widower or surviving civil partner;
- (f) a dependent child.

(8) For the purposes of sub-paragraph (7)(f), a person is a “dependent child” of a Crown servant if they are a child of the Crown servant and—

- (a) they—
  - (i) have not, or, when they departed the United Kingdom, had not, attained the relevant age, and
  - (ii) are, or, where the Crown servant is deceased, were, wholly or mainly financially dependent on the Crown servant whilst accompanying the Crown servant on their overseas posting, or
- (b) they are, or, where the Crown servant is deceased, were, wholly or mainly financially dependent on the Crown servant because of a disability (within the meaning of section 6 of the Equality Act 2010(a)).

(9) For the purposes of sub-paragraph (8)(a)(i) “relevant age”—

- (a) in relation to a child of a civil servant, means the age of 21;
- (b) in relation to a child of a member of the armed forces of the Crown, means the age of 25.

### **Qualifying persons to be treated as previous patients of contractors**

**32B.**—(1) For the purposes of this Part of this Schedule, a qualifying person (“P”) is required to be treated as a previous patient of a contractor if—

- (a) where sub-paragraph (2) of paragraph 32A applies to P, P was removed from the contractor’s, or a predecessor contractor’s, list of patients under paragraph 29(1)(a) or (d) following the posting mentioned in paragraph 32A(2) or a previous overseas posting;
- (b) where sub-paragraph (3) of paragraph 32A applies to P, R (within the meaning of that sub-paragraph) was removed from the contractor’s, or a predecessor contractor’s, list of patients under paragraph 29(1)(a) or (d) following the posting mentioned paragraph 32A(2) or a previous overseas posting;
- (c) where sub-paragraph (4) of paragraph 32A applies to P, C (within the meaning of that sub-paragraph) was removed from the contractor’s, or a predecessor contractor’s, list of patients under paragraph 29(1)(a) or (d) following the posting mentioned in paragraph 32A(4) or a previous overseas posting;

---

(a) 2010 c. 15.



- (d) where sub-paragraph (5) of paragraph 32A applies to P, P was removed from the contractor's, or a predecessor contractor's, list of patients under paragraph 29(1)(a) or (d) following P accompanying M (within the meaning of sub-paragraph (5) of paragraph 32A) on the posting mentioned in paragraph 32A(5) or on a previous overseas posting.
- (2) For the purposes of this paragraph "predecessor contractor", in relation to a contractor ("A")—
- (a) where A's status as a contractor is that of a partnership following a variation in accordance with paragraph 58, means the individual medical practitioner referred to in sub-paragraph (1) of that paragraph;
  - (b) where A's status as a contractor is that of an individual medical practitioner following a variation in accordance with sub-paragraph (11) of paragraph 59, means the partnership referred to in sub-paragraph (1) or (4) (as the case may be) of that paragraph;
  - (c) where otherwise than as set out in paragraph (a) or (b), A assumes any of the obligations of another contractor ("B") to provide services originally provided by B under B's contract, means B.

### **General interpretation of Part 2A**

**32C.**—(1) In this Part of this Schedule—

"child" means—

- (a) a natural child,
- (b) an adopted child, or
- (c) a step-child;

"planned return date" means the date on which a person intends to return to the United Kingdom;

"qualifying person" has the meaning given in paragraph 32A;

"relevant family member" has the meaning given in paragraph 32A.

(2) For the purposes of this Part of this Schedule, a Crown servant is posted overseas if—

- (a) they are performing overseas (but not in Northern Ireland) the duties of a civil servant or member of the armed forces of the Crown (as the case may be), and
- (b) they were, immediately before their posting or the first of consecutive postings, ordinarily resident in the United Kingdom.

(3) For the purposes of this Part of this Schedule, a relevant family member of a Crown servant who has not resided in the United Kingdom and is coming, or has come, to the United Kingdom for the first time is to be treated as if they—

- (a) are returning, or have returned, to the United Kingdom, and
- (b) departed the United Kingdom on the day on which they became a relevant family member of the Crown servant.

(4) For the purposes of this part of this Schedule, a person is to be regarded as temporarily resident in a place if, when that person arrives in that place, they intend to stay for more than 24 hours but not for more than three months.

## CHAPTER 2

Crown servants and family members returning to the United Kingdom: registering with original or successor practice

### **Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of original or successor practice**

**32D.**—(1) Subject to sub-paragraph (4), a contractor must include a qualifying person (“P”) in the contractor’s list of patients if—

- (a) P is not registered as a patient with a provider of primary medical services,
- (b) P is required to be treated as a previous patient of the contractor,
- (c) P is returning, or has returned, to the United Kingdom for a period of more than three months, and
- (d) either—
  - (i) P makes an application for inclusion in the contractor’s list of patients (a “list application”), or
  - (ii) where P is a person to whom sub-paragraph (2) applies, a list application is made on their behalf by an appropriate person.

(2) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a list application or to authorise a person to make such an application on their behalf.

(3) For the purposes of sub-paragraph (1) it does not matter whether the contractor’s list of patients is open or closed.

(4) A list application—

- (a) may be made on or after the date which is one month before the planned return date, but
- (b) must be made before the end of the period of three months beginning with the day on which the person returns to the United Kingdom.

(5) Paragraph 29(1)(a) or (d) does not apply in respect of a qualifying person who is included in the contractor’s list of patients by virtue of sub-paragraph (1) before their return to the United Kingdom.

(6) Where a contractor accepts a list application, the contractor—

- (a) must give notice in writing to the Board of that acceptance (including the planned return date, where the application is made and accepted before that date) as soon as possible, but
- (b) is not required to provide primary medical services to the qualifying person before they return to the United Kingdom.

(7) The Board must, on receipt of a notice given under sub-paragraph (6)(a)—

- (a) include the qualifying person in the contractor’s list of patients from the relevant date, and
- (b) give notice in writing to the qualifying person or the appropriate person (as the case may be) of the acceptance.

(8) For the purposes of paragraph (7)(a) “the relevant date” is—

- (a) where the relevant list application is made after a person’s return to the United Kingdom, the date on which the Board receives the notice given under sub-paragraph (7)(a);
- (b) where the relevant list application is made before a person’s return to the United Kingdom, the later of—

- (i) the planned return date, and
  - (ii) the date on which the Board receives the notice given under sub-paragraph (7)(a).
- (9) This paragraph is subject to paragraph 32H.

**Persons returning to the United Kingdom for three months or less: temporary registration with original or successor practice**

**32E.**—(1) A contractor must accept a qualifying person to whom sub-paragraph (2) applies (“P”) as a temporary resident provided that the contractor is satisfied that—

- (a) if P is in the United Kingdom, P is not being provided with essential services (or their equivalent) under any other arrangement in the locality where P is temporarily residing, or
- (b) if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with essential services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.

(2) This sub-paragraph applies to a qualifying person if—

- (a) they are returning, or have returned, to the United Kingdom for a period of more than 24 hours but not more than three months,
- (b) they are required to be treated as a previous patient of the contractor, and
- (c) either—
  - (i) they make an application to be accepted as a temporary resident by the contractor (a “temporary resident application”), or
  - (ii) where they are a person to whom sub-paragraph (3) applies, a temporary resident application is made on their behalf by an appropriate person.

(3) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a temporary resident application or to authorise a person to make such an application on their behalf.

(4) For the purposes of sub-paragraph (1) it does not matter whether the contractor’s list of patients is open or closed.

(5) A temporary resident application may be made on or after the date which falls one month before the planned return date.

(6) Where a contractor accepts a temporary resident application, the contractor’s responsibility for the relevant qualifying person does not begin until the relevant date.

(7) Where a contractor wants to terminate its responsibility for a qualifying person accepted by it as a temporary resident under this paragraph before the end of the temporary residence period—

- (a) the contractor must give notice, either orally or in writing, of that fact to the qualifying person or an appropriate person (as the case may be), and
- (b) the contractor’s responsibility for the qualifying person is to cease seven days after the date on which the notice mentioned in paragraph (a) is given.

(8) The contractor must give notice in writing to the Board of its acceptance of a qualifying person as a temporary resident—

- (a) at the end of the period of three months beginning with the relevant date, or
- (b) if the contractor’s period of responsibility for that person as a temporary resident came to an end earlier than the end of the three month period referred to in paragraph (a), at the end of that period.

(9) In this paragraph—

“relevant date” means the later of—

- (a) the date on which the contractor accepts the qualifying person as a temporary resident, and
- (b) the date on which the qualifying person returns to the United Kingdom;

“the temporary residence period”, in relation to a qualifying person, means—

- (a) the period of three months beginning with the relevant date, or
- (b) such shorter period for which the contractor agreed to accept that person as a temporary resident.

(10) This paragraph is subject to paragraph 32H.

### CHAPTER 3

Crown servants and family members returning to the United Kingdom: registration with a new practice

#### **Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of patients of a new practice**

**32F.**—(1) A contractor must, if the contractor’s list of patients is open, include a qualifying person (“P”) in the contractor’s list of patients if—

- (a) P is not registered as a patient with a provider of primary medical services,
- (b) P is returning, or has returned, to the United Kingdom for a period of more than three months,
- (c) P is not required to be treated as a previous patient of the contractor, and
- (d) either—
  - (i) P makes an application for inclusion in that list (a “list application”), or
  - (ii) where P is a person to whom sub-paragraph (2) applies, a list application is made on their behalf by an appropriate person.

(2) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a list application or to authorise a person to make such an application on their behalf.

(3) A list application may be made during the period commencing one month prior to the planned return date and ending 24 hours prior to that date.

(4) Where a contractor’s list of patients is closed, the contractor may, by virtue of this sub-paragraph, accept a list application if the applicant is an immediate family member of a registered patient.

(5) Paragraph 29(1)(a) or (d) does not apply in respect of a qualifying person who is included in the contractor’s list of patients by virtue of sub-paragraph (1) before their return to the United Kingdom.

(6) Where a contractor accepts a list application, the contractor—

- (a) must give notice in writing to the Board of that acceptance (including the planned return date) as soon as possible, but
- (b) is not required to provide primary medical services to the qualifying person before they return to the United Kingdom.

(7) The Board must, on receipt of a notice given under sub-paragraph (6)(a)—

- (a) include the qualifying person in the contractor’s list of patients from the relevant date, and
- (b) give notice in writing to the qualifying person or the appropriate person (as the case may be) of the acceptance.

- (8) For the purposes of sub-paragraph (7)(a) “the relevant date” is the later of—
- (a) the date on which the Board receives the notice given under sub-paragraph (6)(a), and
  - (b) the planned return date.
- (9) This paragraph is subject to paragraph 32H.

**Crown servants and family members returning to the United Kingdom for three months or less: temporary registration with new practice**

**32G.**—(1) A contractor must, if the contractor’s list of patients is open, accept a qualifying person to whom sub-paragraph (2) applies (“P”) as a temporary resident provided that the contractor is satisfied that—

- (a) if P is in the United Kingdom, P is not being provided with essential services (or their equivalent) under any other arrangement in the locality where P is temporarily residing, or
  - (b) if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with essential services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.
- (2) This sub-paragraph applies to a qualifying person if—
- (a) they are returning, or have returned, to the United Kingdom for a period of at least 24 hours but not more than three months,
  - (b) they are not required to be treated as a previous patient of the contractor, and
  - (c) either—
    - (i) they make an application to be accepted as a temporary resident by the contractor (a “temporary resident application”), or
    - (ii) where they are a person to whom sub-paragraph (3) applies, a temporary resident application is made on their behalf by an appropriate person.

(3) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a temporary resident application or to authorise a person to make such an application on their behalf.

(4) A temporary resident application may be made on or after the date which falls one month before the planned return date.

(5) Where a contractor accepts a temporary resident application, the contractor’s responsibility for the relevant qualifying person does not begin until the relevant date.

(6) Where a contractor wants to terminate its responsibility for a qualifying person accepted by it as a temporary resident under this paragraph before the end of the temporary residence period—

- (a) the contractor must give notice, either orally or in writing, of that fact to the qualifying person or an appropriate person (as the case may be), and
- (b) the contractor’s responsibility for the qualifying person is to cease seven days after the date on which the notice mentioned in paragraph (a) is given.

(7) The contractor must give notice in writing to the Board of its acceptance of the qualifying person as a temporary resident—

- (a) at the end of the period of three months beginning with the relevant date, or
- (b) if the contractor’s period of responsibility for that person as a temporary resident came to an end earlier than the end of the three month period referred to in paragraph (a), at the end of that period.

(8) In this paragraph—

“relevant date” means the later of—

- (a) the date on which the contractor accepts the qualifying person as a temporary resident, and
- (b) the date on which the qualifying person returns to the United Kingdom;

“the temporary residence period”, in relation to a qualifying person, means—

- (a) the period of three months beginning with the relevant date, or
- (b) such shorter period for which the contractor agreed to accept that person as a temporary resident.

(9) This paragraph is subject to paragraph 32H.

## CHAPTER 4

### Refusal of applications under this Part

#### **Refusal of an application under paragraphs 32D to 32G**

**32H.**—(1) The contractor may refuse a list application, or a temporary residence application, if (and only if) the contractor has reasonable grounds for doing so which do not relate to the qualifying person’s age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

(2) The reasonable grounds referred to in sub-paragraph (1) may, in the case of a list application, include the ground that the qualifying person will not, on or after the planned return date, live in, or does not intend to live in, either of the following areas—

- (a) the contractor’s practice area, or
- (b) the outer boundary area (the area referred to in regulation 20(3)).

(3) Where a contractor refuses a list application, or temporary resident application, the contractor must give a refusal notice to the relevant person before the end of the period of 14 days beginning with the date of the decision to refuse the application.

(4) For the purposes of sub-paragraph (3), the relevant person is—

- (a) the applicant, or
- (b) where the application was made on behalf of a person who has not attained the age of 16 years or a person who lacks capacity, the person who made the application on their behalf.

(5) The contractor must—

- (a) keep a written record of—
  - (i) the refusal of any list application, and
  - (ii) its reasons for that refusal, and
- (b) make such records available to the Board on request.

(6) In this paragraph—

“list application” means an application under paragraph 32D or 32F;

“refusal notice” means a notice which—

- (a) is in writing, and
- (b) includes the reasons for the decision to refuse the relevant application;

“temporary residence application” means an application under paragraph 32E or 32G.”.

**5.** In consequence of the amendments made by paragraph 2(a), in regulation 67A(a)—

---

(a) Regulation 67A was inserted by S.I. 2020/1415.

- (a) in paragraph (2), after “appropriate person” insert “acting on behalf of P”;
- (b) in paragraph (3), after “appropriate person” insert “acting on behalf of P”;
- (c) in paragraph (7), omit the definition of “appropriate person”.

## PART 3

### Prescribing and dispensing

#### Prescribing for electronic repeat dispensing

6. In regulation 60A(a), in paragraph (1) for the words from “where”, in the second place in which it occurs, to “consents” substitute “where it is clinically appropriate to do so for that patient on that occasion”.

## PART 4

### Online and electronic services

#### Online services and electronic communications

7. In regulation 3(1), after the definition of “Nursing and Midwifery Register” insert—  
““online consultation tool” has the meaning given in regulation 71ZD(2);”.

8. In regulation 68(b), in paragraph (2) after “67A” insert “or any information about ethnicity provided under regulation 71ZC”.

9. After regulation 71ZB(c) insert—

#### “Patient online services: providing and updating personal or contact information

**71ZC.**—(1) A contractor must offer and promote to its registered patients a facility for providing their personal or contact information, or informing the contractor of a change to that information, which meets the condition in paragraph (2).

(2) A facility meets the condition in this paragraph if it enables—

- (a) P, or
- (b) where P is a person to whom paragraph (3) applies, an appropriate person acting on behalf of P,

to provide the contractor with, or inform it of any change to, P’s personal or contact information in P’s medical record, either online or by other electronic means.

(3) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to provide the contractor with their personal or contact information or to authorise a person to provide such information on their behalf.

(4) For the purposes of this regulation, P’s personal and contact information is—

- (a) their name;
- (b) their ethnicity;
- (c) their address;

---

(a) Regulation 60A was inserted by S.I. 2019/1137 and amended by S.I. 2020/226.  
(b) Regulation 68(2) was amended by S.I. 2020/1415.  
(c) Regulation 71ZB was inserted by S.I. 2020/226.

- (d) their telephone number or mobile telephone number (if any);
- (e) their electronic mail address (if any).

**Patient online services: provision of an online consultation tool**

**71ZD.**—(1) A contractor must offer and promote an online consultation tool to its registered patients.

(2) An “online consultation tool” is an online facility provided using appropriate software—

- (a) through which—
  - (i) a patient, or
  - (ii) where the patient is a person to whom paragraph (4) applies, an appropriate person acting on behalf of the patient,  
may, in writing in electronic form, seek advice or information related to the patient’s health or make a clinical or administrative request, but
- (b) which does not require the response to be given by the contractor in real time.

(3) An online consultation tool may incorporate—

- (a) any of the facilities which the contractor is required to offer under regulations 71 to 71ZC, or
- (b) the communication method which the contractor is required to offer under regulation 71ZE.

(4) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to communicate with the contractor through an online facility or to authorise a person to communicate with the contractor through such a facility on their behalf.

**Secure electronic communications**

**71ZE.**—(1) A contractor must—

- (a) offer and promote to its registered patients a relevant electronic communication method, and
- (b) use the relevant electronic communication method to communicate with—
  - (i) a registered patient, or
  - (ii) where the registered patient is a person to whom paragraph (4) applies, an appropriate person acting on behalf of that patient.

(2) But paragraph (1)(b) does not require the contractor to use the relevant electronic communication method where—

- (a) it would not be clinically appropriate to do so for the patient on that occasion, or
- (b) it is otherwise not appropriate to the needs or circumstances of the patient.

(3) For the purposes of this regulation, a “relevant electronic communication method” is a method of electronic communication which is provided using appropriate software and can be used—

- (a) by the contractor to respond, in writing in electronic form, to requests made through the online consultation tool, and
- (b) by the contractor and its registered patients or appropriate persons acting on behalf of registered patients (as the case may be) to otherwise communicate with each other in writing in electronic form.

(4) This paragraph applies to a person if they—



- (a) are a child, or
- (b) lack the capacity to communicate with the contractor using the relevant electronic communication method or to authorise a person to do so on their behalf.

### **Video consultations**

**71ZF.**—(1) A contractor must offer and promote to its registered patients the facility of participating in their consultations with the contractor by video conference using appropriate software (“video consultations”).

(2) But paragraph (1) does not require the contractor to offer a patient a video consultation where—

- (a) it would not be clinically appropriate to do so for the patient on that occasion, or
- (b) it is otherwise not appropriate to the needs or circumstances of the patient.

(3) The contractor must not be party to a contract or other arrangement under which the software mentioned in paragraph (1) is provided unless—

- (a) it is satisfied that any software which a patient needs to participate in a video consultation with the contractor’s practice is available free of charge to the patient, and
- (b) it has taken reasonable steps, having regard to the arrangement as a whole and disregarding the costs of any software, to satisfy itself that patients will not have to pay more to participate in video consultations with the contractor’s practice than they would to participate in a meeting by video conference with any other person in the contractor’s area.

### **Meaning of “appropriate software” for the purposes of regulations 71ZD, 71ZE and 71ZF**

**71ZG.**—(1) For the purposes of regulations 71ZD, 71ZE and 71ZF the software used for the purposes of providing a facility or method of communication (as the case may be) is appropriate if the software meets—

- (a) the requirements in the GPIT Operating Model relevant to that software, or
- (b) requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.

(2) In this regulation “GPIT Operating Model” means the document published by the Board which sets out the commissioning framework for the provision of general practice digital services(a).”.

**10.** After regulation 74H(b) insert—

#### **“Collection of data concerning use of online consultation tools and video consultations**

**74I.** A contractor must submit to the Board such anonymised data relating to the use of its online consultation tool and video consultation facility as the Board may require.”.

### **Online presence**

**11.** In regulation 71(a), in paragraph (8), after “on” insert “the home page (or equivalent) of”.

---

(a) The current version of the document is titled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2019-21” and is available at: <https://www.england.nhs.uk/publication/securing-excellence-in-primary-care-gp-digital-services-the-primary-care-gp-digital-services-operating-model-2019-21/>. The document can be obtained in alternative formats by telephone (on 0300 311 22 33), by email (England.contactus@nhs.net) or by writing to NHS England and NHS Improvement, PO Box 16738, Redditch, B97 9PT.

(b) Regulation 74H was inserted by S.I. 2020/911.

12. In regulation 73(b), after paragraph (5) insert—

“(5A) The contractor must also ensure there are links on its website or profile which direct people to—

- (a) its online consultation tool, and
- (b) the symptom checker and self-care information available on the NHS website(c).

(5B) The links mentioned in paragraph (5A) must be displayed prominently on the home page (or equivalent) of its website or profile (as the case may be).”.

## PART 5

### Certificates

#### Patients who should not be tested for, or vaccinated against, coronavirus

13. After regulation 22 insert—

#### **“Patients who should not be tested for, or vaccinated against, coronavirus: confirmation of exemption**

**22A.**—(1) Subject to paragraph (6), a contract must contain a term which requires the contractor to respond to a valid exemption confirmation request.

(2) An exemption confirmation request—

- (a) is a request to confirm whether a relevant patient (“P”), for clinical reasons—
  - (i) should neither be tested for coronavirus nor vaccinated with an authorised vaccine, or
  - (ii) should not be vaccinated with an authorised vaccine, and
- (b) is valid if it is made in accordance with the process approved by the Secretary of State(d).

(3) An exemption confirmation request may be made by—

- (a) P, or
- (b) where P is a person to whom paragraph (4) applies, an appropriate person acting on behalf of P.

(4) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to make a request under paragraph (1).

(5) The contractor must respond to a valid exemption confirmation request—

- (a) free of charge to P or the appropriate person, and
- (b) by recording its response on an information hub using a method approved by the Secretary of State.

(6) A contractor is not required to respond to a valid exemption confirmation request if—

- (a) for the medical condition which may mean that P should neither be tested for coronavirus nor vaccinated with an authorised vaccine, or should not be vaccinated with an authorised vaccine, P is being attended by a medical practitioner who is not—

---

(a) Regulation 71(8) was amended by S.I. 2020/226.

(b) Regulation 73 was substituted by S.I. 2020/226.

(c) The symptom checker is currently available at: <https://www.nhs.uk/conditions/>

(d) Full details of the process will be made available on [www.gov.uk](http://www.gov.uk) before 1st October 2021.

- (i) engaged or employed by the contractor,
  - (ii) in the case of a contract with two or more persons practising in partnership, one of those persons, or
  - (iii) in the case of a contract with a company limited by shares, one of the persons legally or beneficially owning shares in that company, and
  - (b) that medical condition is not one to which paragraph (7) applies.
- (7) This paragraph applies to a medical condition if no person with that condition should be—
- (a) tested for coronavirus or vaccinated with an authorised vaccine, or
  - (b) vaccinated with an authorised vaccine.
- (8) In this regulation—
- “authorised vaccine” means a medicinal product—
- (a) authorised for supply in the United Kingdom in accordance with a marketing authorisation, or
  - (b) authorised by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012 (supply in response to spread of pathogenic agents etc),
- for vaccination against coronavirus;
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- “licensing authority”, “marketing authorisation” and “medicinal product” have the meanings given in the Human Medicines Regulations 2012 (see regulations 6, 8 and 2, respectively, of those Regulations);
- “relevant patient” means—
- (a) a registered patient, or
  - (b) a temporary resident.”.

## PART 6

### Other minor amendments

#### References to “additional services”

14. In regulation 3—
- (a) in paragraph (1)—
    - (i) omit the definition of “additional services”;
    - (ii) in the definition of “enhanced services”, for “additional services”, in both places it occurs, substitute “minor surgery”;
    - (iii) for the definition of “minor surgery” substitute—
      - ““minor surgery” has the meaning given in paragraph (6A);”;
    - (iv) in the definition of “out of hours services”, for “additional services” substitute “minor surgery”;
  - (b) after paragraph (6) insert—
    - “(6A) “Minor surgery” means the following services—
      - (a) making available to patients where appropriate—
        - (i) curettage,
        - (ii) cautery, and
        - (iii) cryocautery of warts, verrucae and other skin lesions;

- (b) recording in the patient's record—
  - (i) details of the minor surgery provided to the patient, and
  - (ii) the consent of the patient to that surgery.”.

**15.** In regulation 17(1), for “, (9) and (12)” substitute “and (9)”.

**16.** For regulation 19 substitute—

**“Minor surgery**

**19.—**(1) Subject to Part 6, a contract may provide for the provision by a contractor of minor surgery.

(2) A contract which includes minor surgery must contain a term which requires the contractor to provide such facilities as are necessary to enable the contractor to properly perform that service.”.

**17.** In regulation 20(2)—

- (a) in sub-paragraph (a)(ii), for “additional services” substitute “minor surgery”;
- (b) in sub-paragraph (b)(ii), for “additional services” substitute “minor surgery”;
- (c) in sub-paragraph (c), for “additional services” substitute “minor surgery”.

**18.** In regulation 30(6)(c)—

- (a) for “additional services” substitute “minor surgery”;
- (b) for “such services” substitute “that service”.

**19.** In regulation 33, for “an additional service” substitute “minor surgery” in each of the following definitions—

- (a) “opt out notice”;
- (b) “permanent opt out”;
- (c) “preliminary opt out notice”;
- (d) “temporary opt out”.

**20.** In regulation 34, for paragraph (a) substitute—

“(a) minor surgery, or”.

**21.—**(1) Regulation 35 is amended as follows.

- (2) In the heading, for “additional services” substitute “minor surgery”.
- (3) In paragraph (1), for “additional services” substitute “minor surgery”.
- (4) In paragraphs (2) and (5), for “the additional service” substitute “minor surgery”.
- (5) In paragraph (6)—
  - (a) omit sub-paragraph (a);
  - (b) in sub-paragraph (b), omit “, in relation to that service,”.
- (6) In paragraph (7), for “the same additional service is concerned” substitute “they also concerned minor surgery”.

**22.—**(1) Regulation 36 is amended as follows.

- (2) In the heading, for “Additional services” substitute “Minor surgery”.
- (3) In paragraph (3)—
  - (a) in sub-paragraph (a), for “additional services” substitute “minor surgery”;
  - (b) in sub-paragraph (b), for “the additional service” substitute “minor surgery”.
- (4) In paragraph (6), in the words before sub-paragraph (a), for “the additional service specified in the notice” substitute “minor surgery”.

- (5) In paragraph (8)(a), for “the additional service” substitute “minor surgery”.
- (6) In paragraph (10), for “the additional service in question” substitute “minor surgery”.

**23.**—(1) Regulation 37 is amended as follows.

- (2) In the heading, for “Additional services” substitute “Minor surgery”.
- (3) In paragraph (4), for “an additional service” substitute “minor surgery”.
- (4) In paragraph (6), for “the additional service” substitute “minor surgery”.
- (5) In paragraph (7), for “the additional service” substitute “minor surgery”.
- (6) In paragraph (8), for “the additional service”, in each place it occurs, substitute “minor surgery”.
- (7) In paragraph (9), for “the additional service”, in both places it occurs, substitute “minor surgery”.
- (8) In paragraph (10), for “the additional service” substitute “minor surgery”.
- (9) In paragraph (11), for “the additional service” substitute “minor surgery”.

**24.** In regulation 39(2), for “the additional service” substitute “minor surgery”.

**25.** Omit Schedule 1.

**26.** In Schedule 3—

- (a) in paragraph 15(1), for paragraph (a) substitute—  
“ (a) minor surgery;”;
- (b) in paragraph 16, for sub-paragraph (a) substitute—  
“ (a) minor surgery;”.

### **Transfer of patient records: time limits**

**27.** After regulation 69, insert—

#### **“Transfer of patient records between GP practices: time limits**

**69A.**—(1) This regulation applies where—

- (a) a patient on a contractor’s list of patients has registered with another provider of primary medical services, and
- (b) the contractor receives a request from that provider for the complete records relating to that patient.

(2) The contractor must, before the end of the period of 28 days beginning with the day on which it receives the request from the provider—

- (a) send the complete records (other than any part of the records held only in paper form) to the provider via the GP2GP facility in accordance with regulation 69, and
- (b) send to the Board in accordance with regulation 67(5A), the complete records, or any part of the records—
  - (i) for which the contractor does not receive a confirmation, or
  - (ii) held only in paper form.

(3) In this regulation—

“confirmation”, in relation to records sent via the GP2GP facility, means confirmation of safe and effective transfer via that facility;

“GPG2P facility” has the same meaning as in paragraph (2) of regulation 69.”.

## Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2015

### PART 1

#### Disclosure of information about NHS earnings

##### Disclosure of information about NHS earnings

##### 1. After regulation 21 insert—

##### **“Disclosure of information about NHS earnings: contractors and sub-contractors**

**21A.**—(1) An agreement which is with a person falling within section 93(1)(b) to (e) of the Act must include the term specified in paragraph (2).

(2) The term is a term which requires the contractor to comply with the disclosure obligation for each relevant financial year in which—

- (a) they are a contractor, and
- (b) their NHS earnings exceed the relevant threshold.

(3) For the purposes of this regulation—

- (a) the disclosure obligation, in relation to a relevant financial year, is the requirement for an individual (“I”) to submit the following information for publication to the Health and Social Care Information Centre<sup>(a)</sup> by the disclosure date—

- (i) I’s name,
- (ii) I’s job title,
- (iii) the details of each organisation from which I has derived NHS earnings in that financial year, and
- (iv) the amount of I’s NHS earnings for that financial year;

- (b) “relevant financial year” means a financial year<sup>(b)</sup> ending—

- (i) on or after 31st March 2020, but
- (ii) on or before 31st March 2024;

- (c) “relevant threshold” means—

- (i) for the financial year ending on 31st March 2020, £150,000;
- (ii) for the financial year ending on 31st March 2021, £153,000;
- (iii) for the financial year ending on 31st March 2022, £156,000;
- (iv) for the financial year ending on 31st March 2023, £159,000;
- (v) for the financial year ending on 31st March 2024, £163,000.

(4) For the purposes of paragraph (3)(a) “the disclosure date” is—

- (a) in relation to the financial year ending 31st March 2020, 12th November 2021;
- (b) in relation to any subsequent financial year, 30th April in the financial year which begins immediately after the end of the next financial year.

---

(a) The Health and Social Care Information Centre (known as NHS Digital) is a body corporate established under section 252(1) of the Health and Social Care Act 2012. The information must be submitted to NHS Digital through its Strategic Data Collection Service, available at <https://datacollection.sdc.digital.nhs.uk>.

(b) “Financial year” is defined in section 275(1) of the National Health Service Act 2006.

(5) For the purposes of paragraph (4) “the next financial year”, in relation to a financial year (“FY1”), is the financial year which begins immediately after the end of FY1 (this means, for example, that “the next financial year”, in relation to the financial year ending 31st March 2021, is the financial year ending 31st March 2022).

(6) An agreement must also include a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the agreement unless—

- (a) where the sub-contractor is an individual, the sub-contract entered into by the contractor requires the individual to comply with the disclosure obligation for each relevant financial year in which the individual’s NHS earnings exceed the relevant threshold;
- (b) where the sub-contractor is a partnership, the sub-contract entered into by the contractor requires each sub-contractor partnership member of that partnership to comply with the disclosure obligation for each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant financial threshold;
- (c) in all cases, the sub-contract prohibits the sub-contractor (“S”) from sub-contracting, where permitted by paragraph 43(4A) of Schedule 2, any of the clinical services S has agreed with the contractor to provide under the sub-contract unless—
  - (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation in relation to each financial year in which I’s NHS earnings exceed the relevant threshold;
  - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member in that partnership to comply with the disclosure obligation in relation to each relevant financial year in which the sub-contractor partnership member’s NHS earnings exceed the relevant threshold.

(7) An agreement must also include a term requiring the contractor to use reasonable endeavours to ensure that any relevant sub-contract is amended to contain the terms specified in paragraph (9).

(8) For the purposes of paragraph (7) “relevant sub-contract” means a sub-contract—

- (a) for the provision of any of the clinical services which the contractor is required to provide under the agreement by any other person, and
- (b) which is in force at the time when this regulation comes into force.

(9) The terms are—

- (a) a term which requires—
  - (i) the subcontractor (“S”), where S is an individual, or
  - (ii) each sub-contractor partnership member, where S is a partnership,to comply with the disclosure obligation for each relevant financial year in which the individual’s, or as the case may be, sub-contractor partnership member’s NHS earnings exceed the relevant threshold, and
- (b) a term which prevents S from sub-contracting obligations to provide clinical services under the contract, where permitted by paragraph 43(4A) of Schedule 2, unless—
  - (i) where the sub-contractor is an individual (“I”), the sub-contract entered into by S requires I to comply with the disclosure obligation in relation to each financial year in which I’s earnings exceed the relevant threshold;
  - (ii) where the sub-contractor is a partnership, the sub-contract entered into by S requires each sub-contractor partnership member to comply with the disclosure obligation in relation to each relevant financial year in which the

sub-contractor partnership member's NHS earnings exceed the relevant threshold.

(10) Nothing in paragraph (6), (7) or (9) requires any individual to comply with the disclosure obligation for any relevant financial year which—

- (a) ends before the individual or partnership (as the case may be) enters into a sub-contract with the contractor or a sub-contractor;
- (b) begins after the individual's or, as the case may be, partnership's sub-contract with the contractor or sub-contractor has terminated.

(11) In this regulation—

“locum practitioner” has the meaning given in Schedule 15 to the National Health Service Pension Scheme Regulations 2015(a);

“NHS earnings” has the meaning given in regulation 27B;

“sub-contractor” means a person to whom any rights or duties under the contract in relation to clinical matters are, or have been, sub-contracted under paragraph 44(1) of Schedule 3, and includes an individual who is a locum practitioner;

“sub-contractor partnership member”, in relation to a sub-contractor who is a partnership, means an individual who is a partner in that partnership.

### **Calculation of NHS earnings for the purposes of regulation 21A**

**21B.**—(1) This regulation sets out how an individual's NHS earnings are to be calculated for the purposes of regulation 21A.

(2) An individual's NHS earnings for a relevant financial year are those earnings which constitute relevant income in respect of that financial year.

(3) In this regulation “relevant income”—

- (a) in relation to an individual who is an active member of the Scheme and is a medical practitioner (other than a locum practitioner) or a non-GP provider, means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) which is practitioner income as determined under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), in respect of the financial year in question;
- (b) in relation to a person (“P”) who is an active member of the Scheme and a locum practitioner, means—
  - (i) any income which is locum practitioner income as determined under paragraph 7 of Schedule 10 to the NHS Pension Scheme Regulations in respect of the financial year in question, and
  - (ii) any income (including any form of remuneration and salary, wages, fees, director's remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), if P had been a medical practitioner but not a locum practitioner;
- (c) in relation to any other person (“P”), means income (including any form of remuneration and any salary, wages, fees, director's remuneration or dividends) received by P in the financial year in question from any organisation which would have been treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations, as modified in accordance with paragraph (4), if P had been—
  - (i) an active member of the Scheme, and

---

(a) S.I. 2015/94.



(ii) a medical practitioner or non-GP provider.

(4) For the purposes of determining a person's relevant income under paragraph (3)(a), (b)(ii) or (c), Schedule 10 to the NHS Pensions Regulations applies as if the following provisions of that Schedule were omitted—

- (a) paragraph 2(1)(b) and the “and” immediately preceding it,
- (b) paragraph 3, and
- (c) paragraph 7.

(5) In this regulation—

“the NHS Pension Scheme Regulations” means the National Health Service Pension Scheme Regulations 2015<sup>(a)</sup> and “active member”, “locum practitioner”, “medical practitioner”, “member” and “non-GP provider” have the meanings given for the purposes of those Regulations;

“relevant financial year” has the meaning given in regulation 27A;

“the Scheme” means the National Health Service Pension Scheme established by the NHS Pension Scheme Regulations.”.

## PART 2

List of patients: Crown servants posted overseas and their family members

### Registration of patients: Crown servants posted overseas and their family members

2. In regulation 3(b)—

(a) after the definition of “appliance”, insert—

““appropriate person”—

(a) in relation to a person who has not attained the age of 16 years, means a person mentioned in paragraph 17(4)(a)(i), (ii) or (iii) of Schedule 2;

(b) in relation to a person who lacks capacity—

(i) to make an application or provide information to, to accept an offer from, or otherwise communicate with, the contractor, or

(ii) to authorise the making of an application or provision of information to, the acceptance of an offer from, or other communication with, the contractor on their behalf,

means a person mentioned in paragraph 17(4)(b)(i), (ii), (iii) or (iv) of Schedule 2;

(b) in the definition of “child”, after ““child”” insert “, other than in Part 2A of Schedule 2,”;

(c) for the definition of “temporary resident” substitute—

““temporary resident” means a person—

(a) accepted by the contractor as a temporary resident under paragraph 19, 31E or 31G of Schedule 2, and

(b) for whom the contractor's responsibility has not terminated under paragraph 19, 31E or 31G (as the case may be) of Schedule 3.”.

3. In Schedule 2(c)—

(a) in paragraph 13(1), for “paragraph 17” substitute “17, 18, 18A, 31D or 31F”;

---

(a) S.I. 2015/94.

(b) There are amendments to regulation 3 but none is relevant.

(c) There are amendments to Schedule 2 but none is relevant.

- (b) in paragraph 17, after sub-paragraph (6) insert—  
“(7) This paragraph is subject to Part 2A.”;
- (c) in paragraph 19, after sub-paragraph (4) insert—  
“(5) This paragraph is subject to Part 2A.”;
- (d) in paragraph 21, for “17 or 29” substitute “17, 19, 31D, 31E, 31F or 31G”;
- (e) after paragraph 31 insert—

## “PART 2A

List of patients: Crown servants posted overseas and their family members

### CHAPTER 1

Interpretation of Part 2A

#### Meaning of “qualifying person”

**31A.**—(1) A person (“P”) is a qualifying person for the purposes of this Part of this Schedule if—

- (a) P is returning, or has returned, to the United Kingdom, and
- (b) sub-paragraph (2), (3), (4) or (5) applies to P.

#### *Civil servants posted overseas*

(2) This sub-paragraph applies to P if—

- (a) P is a civil servant who is, or, immediately before their return to the United Kingdom, was, posted overseas, or
- (b) where P is returning, or has returned, to the United Kingdom for a period of more than three months—
  - (i) P was a civil servant who was posted overseas, and
  - (ii) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a civil servant.

#### *Family members of Crown servants posted overseas*

(3) This sub-paragraph applies to P if P—

- (a) is a relevant family member of a person to whom sub-paragraph (2) applies (“R”), and
- (b) is, or, immediately before their return to the United Kingdom, was, accompanying R on the posting mentioned in sub-paragraph (2).

(4) This sub-paragraph applies to P if P—

- (a) is a relevant family member of a civil servant (“C”) who—
  - (i) is posted overseas, or
  - (ii) where C is deceased, was at the time of their death posted overseas, and
- (b) is, or, immediately before their return to the United Kingdom, was, accompanying C on the posting mentioned in paragraph (a).

(5) This sub-paragraph applies to P if—

- (a) P is a relevant family member of a person (“M”) who—
  - (i) is a member of the armed forces of the Crown who is, or, immediately before their return to the United Kingdom, was posted overseas,
  - (ii) where M is returning, or has returned, to the United Kingdom for more than three months—

- (aa) was a member of the armed forces of the Crown who was posted overseas, and
  - (bb) is returning, or has returned, to the United Kingdom (other than temporarily) for the first time since ceasing to be a member of those forces, or
  - (iii) where M is deceased, was at the time of their death a member of the armed forces of the Crown posted overseas, and
  - (b) P is, or, immediately before their return to the United Kingdom, was, accompanying M on the posting mentioned in paragraph (a).
- (6) In this paragraph—
- “civil servant” means a person employed in the civil service of the State;
  - “Crown servant” means—
  - (a) a civil servant, or
  - (b) a member of the armed forces of the Crown.
- (7) For the purposes of this paragraph “relevant family member”, in relation to a Crown servant (including a Crown servant who is deceased) (“C”), means—
- (a) C’s spouse or civil partner;
  - (b) a person whose relationship with C has the characteristics of a relationship between spouses or civil partners;
  - (c) C’s former spouse or former civil partner;
  - (d) a person whose relationship with C had the characteristics of a relationship between spouses or civil partners but which has ended (for any reason);
  - (e) C’s widow, widower or surviving civil partner;
  - (f) a dependent child.
- (8) For the purposes of sub-paragraph (7)(f), a person is a “dependent child” of a Crown servant if they are a child of the Crown servant and—
- (a) they—
    - (i) have not, or, when they departed the United Kingdom, had not, attained the relevant age, and
    - (ii) are, or, where the Crown servant is deceased, were, wholly or mainly financially dependent on the Crown servant whilst accompanying the Crown servant on their overseas posting, or
  - (b) they are, or where the Crown servant is deceased, were, wholly or mainly financially dependent on the Crown servant because of a disability (within the meaning of section 6 of the Equality Act 2010(a)).
- (10) For the purposes of sub-paragraph (8)(a)(i) “relevant age”—
- (a) in relation to a child of a civil servant, means the age of 21;
  - (b) in relation to a child of a member of the armed forces of the Crown, means the age of 25.

**Qualifying persons to be treated as previous patients of contractors**

**31B.**—(1) For the purposes of this Part of this Schedule, a qualifying person is required to be treated as a previous patient of a contractor if—

- (a) where sub-paragraph (2) of paragraph 31A applies to P, P was removed from the contractor’s, or a predecessor contractor’s, list of patients under paragraph 28(1)(a)

---

(a) 2010 c. 15.

or (d) following the posting mentioned paragraph 31A(2) or a previous overseas posting;

- (b) where sub-paragraph (3) of paragraph 31A applies to P, R (within the meaning of that sub-paragraph) was removed from the contractor's, or a predecessor contractor's, list of patients under paragraph 28(1)(a) or (d) following the posting mentioned paragraph 31A(2) or a previous overseas posting;
- (c) where sub-paragraph (4) of paragraph 31A applies to P, C (within the meaning of that sub-paragraph) was removed from the contractor's, or a predecessor contractor's, list of patients under paragraph 28(1)(a) or (d) following the posting mentioned in paragraph 31A(4) or a previous overseas posting;
- (d) where sub-paragraph (5) of paragraph 31A applies to P, P was removed from the contractor's, or a predecessor contractor's, list of patients under paragraph 28(1)(a) or (d) following P accompanying M (within the meaning of paragraph 31A(5)) on the posting mentioned paragraph 31A(5) or on a previous overseas posting.

(2) For the purposes of this paragraph, a contractor ("A") is a predecessor contractor in relation to another contractor ("B") if B assumes any of the obligations of A to provide services which were originally provided by A under A's contract.

### **General interpretation of Part 2A**

**31C.**—(1) In this Part of this Schedule—

"child" means—

- (a) a natural child,
- (b) an adopted child, or
- (c) a step-child;

"planned return date" means the date on which a person intends to return to the United Kingdom;

"qualifying person" has the meaning given in paragraph 31A;

"relevant family member" has the meaning given in paragraph 31A.

(2) For the purposes of this Part of this Schedule, a Crown servant is posted overseas if they—

- (a) are performing overseas (but not in Northern Ireland) the duties of a civil servant or, as the case may be, a member of those forces overseas, and
- (b) were immediately before their posting, or the first of consecutive postings, ordinarily resident in the United Kingdom.

(3) For the purposes of this Part of this Schedule, a relevant family member of a Crown servant who has not resided in the United Kingdom and is coming, or has come, to the United Kingdom for the first time is to be treated as if—

- (a) they were returning, or had returned, to the United Kingdom, and
- (b) they departed the United Kingdom on the day on which they became a relevant family member of the Crown servant.

(4) For the purposes of this Part of this Schedule, a person is to be regarded as temporarily resident in a place if, when that person arrives in that place, they intend to stay for more than 24 hours but not for more than three months.

## CHAPTER 2

Crown servants and family members returning to the United Kingdom: registration with original or successor practice

### **Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of original practice or successor practice**

**31D.**—(1) Subject to sub-paragraph (4), a contractor must include a qualifying person in the contractor’s list of patients if the qualifying person (“P”) if—

- (a) P is not registered as a patient with a provider of primary medical services,
- (b) P is required to be treated as a previous patient of the contractor,
- (c) P is returning, or has returned, to the United Kingdom for a period of more than three months, and
- (d) either—
  - (i) P makes an application for inclusion in the contractor’s list of patients (a “list application”), or
  - (ii) where P is a person to whom sub-paragraph (2) applies, a list application is made on their behalf by an appropriate person.

(2) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a list application or authorise a person to make such an application on their behalf.

(3) For the purposes of sub-paragraph (1) it does not matter whether the contractor’s list of patients is open or closed.

(4) A list application—

- (a) may be made on or after the date which is one month before the planned return date, but
- (b) must be made before the end of the period of three months beginning with the day on which the person returns to the United Kingdom.

(5) Paragraph 28(1)(a) or (d) does not apply in respect of a qualifying person who is included in the contractor’s list of patients by virtue of sub-paragraph (1) before their return to the United Kingdom.

(6) Where a contractor accepts a list application, the contractor—

- (a) must give notice in writing to the Board of that acceptance (including the planned return date, where the application is made and accepted before that date) as soon as possible, but
- (b) is not required to provide primary medical services to the qualifying person before their return to the United Kingdom.

(7) The Board must, on receipt of a notice given under sub-paragraph (6)(a)—

- (a) include the qualifying person in the contractor’s list of patients from the relevant date, and
- (b) give notice in writing to the qualifying person or the appropriate person (as the case may be) of the acceptance.

(8) For the purposes of sub-paragraph (7)(a) “the relevant date” is—

- (a) where the relevant list application is made after a person’s return to the United Kingdom, the date on which the Board receives the notice given under sub-paragraph (7)(a);
- (b) where the relevant list application is made before a person’s return to the United Kingdom, the later of—

- (i) the planned return date, and
- (ii) the date on which the Board receives the notice given under sub-paragraph (7)(a).

(10) This paragraph is subject to paragraph 31H.

**Crown servants and family members returning to the United Kingdom for three months or less: temporary registration with original or successor practice**

**31E.**—(1) Subject to sub-paragraph (5), a contractor must accept a qualifying person to whom sub-paragraph (2) applies (“P”) as a temporary resident provided that the contractor is satisfied that—

- (a) if P is in the United Kingdom, P is not being provided with essential services (or their equivalent) under any other arrangement in the locality where P is temporarily residing, or
- (b) if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with essential services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.

(2) This sub-paragraph applies to a qualifying person if—

- (a) they are returning, or have returned, to the United Kingdom for a period of more than 24 hours but not more than three months,
- (b) they are required to be treated as a previous patient of the contractor, and
- (c) either—
  - (i) they make an application to be accepted as a temporary resident by the contractor (a “temporary resident application”), or
  - (ii) where they are a person to whom sub-paragraph (3) applies, a temporary resident application is made on their behalf by an appropriate person.

(3) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a temporary resident application or authorise a person to make such an application on their behalf.

(4) For the purposes of sub-paragraph (1), it does not matter whether the contractor’s list of patients is open or closed.

(5) A temporary resident application may be made on or after the date which falls one month before the planned return date.

(6) Where a contractor accepts a temporary resident application, the contractor’s responsibility for the relevant qualifying person does not begin until the relevant date.

(7) Where a contractor wants to terminate its responsibility for a qualifying person accepted by it as a temporary resident under this paragraph before the end of the temporary residence period—

- (a) the contractor must give notice, either orally or in writing, of that fact to the qualifying person or an appropriate person (as the case may be), and
- (b) the contractor’s responsibility for the qualifying person is to cease seven days after the date on which the notice mentioned in paragraph (a) is given.

(8) The contractor must give notice in writing to the Board of its acceptance of the qualifying person as a temporary resident—

- (a) at the end of the period of three months beginning with the relevant date, or
- (b) if the contractor’s period of responsibility for that person as a temporary resident came to an end earlier than the end of the three month period referred to in paragraph (a), at the end of that period.

(9) In this paragraph—

“relevant date” means the later of—

- (a) the date on which the contractor accepts the qualifying person as a temporary resident, and
- (b) the date on which the qualifying person returns to the United Kingdom;

“the temporary residence period”, in relation to a qualifying person, means—

- (a) the period of three months beginning with the relevant date, or
- (b) such shorter period for which the contractor agreed to accept that person as a temporary resident.

(10) This paragraph is subject to paragraph 31H.

### CHAPTER 3

Crown servants and family members returning to the United Kingdom: registration with a new practice

#### **Crown servants and family members returning to the United Kingdom for more than three months: inclusion in list of patients of a new practice**

**31F.**—(1) A contractor must, if the contractor’s list of patient’s is open, include a qualifying person (“P”) in the contractor’s list of patients if—

- (a) P is not registered as a patient with a provider of primary medical services,
- (b) P is returning, or has returned, to the United Kingdom for a period of more than three months,
- (c) P is not required to be treated as a previous patient of the contractor, and
- (d) either—
  - (i) P makes an application for inclusion in that list (a “list application”), or
  - (ii) where P is a person to whom sub-paragraph (2) applies, a list application is made on their behalf by an appropriate person.

(2) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a list application or authorise a person to make such an application on their behalf.

(3) A list application may be made during the period commencing one month prior to the planned return date and ending 24 hours prior to that date.

(4) Where a contractor’s list of patients is closed, the contractor may, by virtue of this sub-paragraph, accept a list application if the applicant is an immediate family member of a registered patient.

(5) Paragraph 28(1)(a) or (d) does not apply in respect of a qualifying person who is included in the contractor’s list of patients by virtue of sub-paragraph (1) before their return to the United Kingdom.

(6) Where a contractor accepts a list application, the contractor—

- (a) must give notice in writing to the Board of that acceptance (including the planned return date) as soon as possible, but
- (b) is not required to provide primary medical services to the qualifying person before they return to the United Kingdom.

(7) The Board must, on receipt of a notice given under sub-paragraph (6)(a)—

- (a) include the qualifying person in the contractor’s list of patients from the relevant date, and
- (b) give notice in writing to the qualifying person or the appropriate person (as the case may be) of the acceptance.

- (9) For the purposes of paragraph (7)(a) “the relevant date” is the later of—
- (a) the date on which the Board receives the notice given under sub-paragraph (6)(a), and
  - (b) the planned return date.
- (10) This paragraph is subject to paragraph 31H.

**Crown servants and family members returning to the United Kingdom for three months or less: temporary registration with new practice**

**31G.**—(1) A contractor must, if the contractor’s list of patients is open, accept a qualifying person to whom sub-paragraph (2) applies (“P”) as a temporary resident provided that the contractor is satisfied that—

- (a) if P is in the United Kingdom, P is not being provided with essential services (or their equivalent) under any other arrangement in the locality where P is temporarily residing, or
  - (b) if P is not yet in the United Kingdom, when P arrives in the United Kingdom, P will not be provided with essential services (or their equivalent) under any other arrangement in the locality where P will be temporarily residing.
- (2) This sub-paragraph applies to a qualifying person if—
- (a) they are returning, or have returned, to the United Kingdom for a period of at least 24 hours but not more than three months,
  - (b) they are not required to be treated as a previous patient of the contractor, and
  - (c) either—
    - (i) they make an application to be accepted as a temporary resident by the contractor (a “temporary resident application”), or
    - (ii) where they are a person to whom sub-paragraph (3) applies, a temporary resident application is made on their behalf by an appropriate person.

(3) This sub-paragraph applies to a person if they—

- (a) have not attained the age of 16 years, or
- (b) lack the capacity to make a temporary resident application or authorise a person to make such an application on their behalf.

(4) A temporary resident application may be made on or after the date which falls one month before the planned return date.

(5) Where a contractor accepts a temporary resident application, the contractor’s responsibility for the relevant qualifying person does not begin until the relevant date.

(7) Where a contractor wants to terminate its responsibility for a qualifying person accepted by it as a temporary resident under this paragraph before the end of the temporary residence period—

- (a) the contractor must give notice, either orally or in writing, of that fact to the qualifying person or an appropriate person (as the case may be), and
- (b) the contractor’s responsibility for the qualifying person is to cease seven days after the date on which the notice mentioned in paragraph (a) is given.

(8) The contractor must give notice in writing to the Board of its acceptance of the qualifying person as a temporary resident—

- (a) at the end of the period of three months beginning with the relevant date, or
- (b) if the contractor’s period of responsibility for that person as a temporary resident came to an end earlier than the end of the three month period referred to in paragraph (a), at the end of that period.

(9) In this paragraph—



“relevant date” means the later of—

- (a) the date on which the contractor accepts the qualifying person as a temporary resident, and
- (b) the date on which the qualifying person returns to the United Kingdom;

“the temporary residence period”, in relation to a qualifying person, means—

- (a) the period of three months beginning with the relevant date, or
- (b) such shorter period for which the contractor agreed to accept that person as a temporary resident.

(10) This paragraph is subject to paragraph 31H.

## CHAPTER 4

### Refusal of applications made under this Part

#### **Refusal of an application under paragraphs 31D to 31G**

**31H.**—(1) The contractor may refuse a list application, or a temporary residence application, if (and only if) the contractor has reasonable grounds for doing so which do not relate to the qualifying person’s age, appearance, disability or medical condition, gender or gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sexual orientation or social class.

(2) The reasonable grounds referred to in sub-paragraph (1) may, in the case of a list application, include the ground that the qualifying person will not, on or after the planned return date, live in, or does not intend to live in, either of the following areas—

- (a) the contractor’s practice area, or
- (b) the outer boundary area (the area referred to in regulation 13(2)).

(3) Where a contractor refuses a list application, or temporary resident application, the contractor must give a refusal notice to the relevant person before the end of the period of 14 days beginning with the date of the decision to refuse the application.

(4) For the purposes of sub-paragraph (3), the relevant person is—

- (a) the applicant, or
- (b) where the application was made on behalf of a person who has not attained the age of 16 years or a person who lacks capacity, the person who made the application on their behalf.

(5) The contractor must—

- (a) keep a written record of—
  - (i) the refusal of any list application, and
  - (ii) its reasons for that refusal, and
- (b) make such records available to the Board on request.

(6) In this paragraph—

“list application” means an application under paragraph 31D or 31F;

“refusal notice” means a notice which—

- (a) is in writing, and
- (b) includes the reasons for a decision to refuse the relevant application;

“temporary residence application” means an application under paragraph 31E or 31G.”.

**4.** In consequence of the amendments made by paragraph 2(a), in regulation 60A(a)—

---

(a) Regulation 60A was inserted by S.I. 2020/1415.

- (a) in paragraph (2), after “appropriate person” insert “acting on behalf of P”;
- (b) in paragraph (3), after “appropriate person” insert “acting on behalf of P”;
- (c) in paragraph (7), omit the definition of “appropriate person”.

## PART 3

### Prescribing and dispensing

#### Prescribing for electronic repeat dispensing

5. In regulation 53A(a), in paragraph (1) for the words from “where”, in the second place in which it occurs, to “consents” substitute “where it is clinically appropriate to do so for that patient on that occasion”.

## PART 4

### Online and electronic services

#### Online services and electronic communications

6. In regulation 3, after the definition of “Nursing and Midwifery Register” insert—  
““online consultation tool” has the meaning given in regulation 64ZD;”.

7. In regulation 61(b), in paragraph (2), after “60A” insert “or any information about ethnicity provided under regulation 64C”.

8. After regulation 64ZB(c) insert—

#### “Patient online services: providing and updating personal or contact information

**64ZC.**—(1) A contractor must offer and promote to its registered patients a facility for providing their personal or contact information, or informing the contractor of a change to that information, which meets the condition in paragraph (2).

(2) A facility meets the condition in this paragraph if it enables—

- (a) P, or
- (b) where P is a person to whom paragraph (3) applies, an appropriate person acting on behalf of P,

to provide the contractor with, or inform it of any change to, P’s personal or contact information in P’s medical record, either online or by other electronic means.

(3) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to provide the contractor with their personal or contact information or to authorise a person to provide such information on their behalf.

(4) For the purposes of this regulation, P’s personal and contact information is—

- (a) their name;
- (b) their ethnicity;
- (c) their address;

---

(a) Regulation 53A was inserted by S.I. 2019/1137 and amended by S.I. 2020/226.  
(b) Regulation 61(2) was amended by S.I. 2020/1415.  
(c) Regulation 64ZB was inserted by S.I. 2020/226.

- (d) their telephone number or mobile telephone number (if any);
- (e) their electronic mail address (if any).

**Patient online services: provision of an online consultation tool**

**64ZD.**—(1) A contractor must offer and promote an online consultation tool to its registered patients.

(2) An “online consultation tool” is an online facility provided using appropriate software—

- (a) through which—
  - (i) a patient, or
  - (ii) where the patient is a person to whom paragraph (4) applies, an appropriate person acting on behalf of the patient,
 

may, in writing in electronic form, seek advice or information related to the patient’s health or make a clinical or administrative request, but
- (b) which does not require the response to be given by the contractor in real time.

(3) An online consultation tool may incorporate—

- (a) any of the facilities which the contractor is required to offer under regulations 64 to 64ZC, or
- (b) the communication method which the contractor is required to offer under regulation 64ZE.

(4) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to communicate with the contractor through an online facility or to authorise a person to communicate with the contractor through such a facility on their behalf.

**Secure electronic communications**

**64ZE.**—(1) A contractor must—

- (a) offer and promote to its registered patients a relevant electronic communication method, and
- (b) use the relevant electronic communication method to communicate with—
  - (i) a registered patient, or
  - (ii) where the registered patient is a person to whom paragraph (4) applies, an appropriate person acting on behalf of the patient.

(2) But paragraph (1)(b) does not require the contractor to use the relevant electronic communication method where—

- (a) it would not be clinically appropriate to do so for the patient on that occasion, or
- (b) it is otherwise not appropriate to the needs or circumstances of the patient.

(3) For the purposes of this regulation, a “relevant electronic communication method” is a method of electronic communication which is provided using appropriate software and which can be used—

- (a) by the contractor to respond, in writing in electronic form, to requests made through the online consultation tool, and
- (b) by the contractor and its registered patients or appropriate persons acting on behalf of registered patients (as the case may be) to otherwise communicate with each other, in writing in electronic form.

(4) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to communicate with the contractor using the relevant electronic communication method or to authorise a person to do so on their behalf.

### **Video consultations**

**64ZF.**—(1) A contractor must offer and promote to its registered patients the facility of participating in their consultations with the contractor by video conference provided using appropriate software (“video consultations”).

(2) But paragraph (1) does not require the contractor to offer a patient a video consultation where—

- (a) it would not be clinically appropriate to do so for the patient on that occasion, or
- (b) it is otherwise not appropriate to the needs or circumstances of the patient.

(3) The contractor must not be party to a contract or other arrangement under which the software mentioned in paragraph (1) is provided unless—

- (a) it is satisfied that any software which a patient needs to participate in a video consultation with the contractor’s practice is available free of charge to the patient, and
- (b) it has taken reasonable steps, having regard to the arrangement as a whole and disregarding the costs of any software, to satisfy itself that patients will not have to pay more to participate in video consultations with the contractor’s practice than they would to participate in a meeting by video conference with any other person in the contractor’s area.

### **Meaning of “appropriate software” for the purposes of regulations 64ZD, 64ZE and 64ZF**

**64ZG.**—(1) For the purposes of regulations 64ZD, 64ZE and 64ZF software which is used to provide a method of communication or facility (as the case may be) is appropriate if the software meets—

- (a) the requirements in the GPIT Operating Model relevant to that software, or
- (b) requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.

(2) In this regulation “GPIT Operating Model” means the document published by the Board which sets out the commissioning framework for the provision of general practice digital services(a).”.

**9.** After regulation 67H(b) insert—

#### **“Collection of data concerning use of online consultation tools and video consultations**

**67I.** A contractor must submit to the Board such anonymised data relating to the use of its online consultation tool and video consultation facility as the Board may require.”.

### **Online presence**

**10.** In regulation 64(a), in paragraph (8), after “on” insert “the home page (or equivalent) of”.

---

(a) The current version of the document is titled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2019-21” and is available at: <https://www.england.nhs.uk/publication/securing-excellence-in-primary-care-gp-digital-services-the-primary-care-gp-digital-services-operating-model-2019-21/>. The document can be obtained in alternative formats by telephone (on 0300 311 22 33), by email (England.contactus@nhs.net) or by writing to NHS England and NHS Improvement, PO Box 16738, Redditch, B97 9PT.

(b) Regulation 67H was inserted by S.I. 2020/911.

**11.** In regulation 66(b), after paragraph (5) insert—

“(5A) The contractor must also ensure there are links on its website or profile which direct people to—

- (a) its online consultation tool, and
- (b) the symptom checker and self-care information available on the NHS website(c).

(5B) The links mentioned in paragraph (5A) must be displayed prominently on the home page (or equivalent) of its website or profile (as the case may be).”.

## PART 5

### Certificates

#### **Patients who should not be tested for, or vaccinated against, coronavirus**

**12.** After regulation 15 insert—

**“Patients who should not be tested for, or vaccinated against, coronavirus: confirmation of exemption**

**15A.**—(1) Subject to paragraph (6), a contract must contain a term which requires the contractor to respond to a valid exemption confirmation request.

(2) An exemption confirmation request—

- (a) is a request to confirm whether a relevant patient (“P”), for clinical reasons—
  - (i) should neither be tested for coronavirus nor vaccinated with an authorised vaccine, or
  - (ii) should not be vaccinated with an authorised vaccine, and
- (b) is valid if it is made in accordance with the process approved by the Secretary of State(d).

(3) An exemption confirmation request may be made by—

- (a) P, or
- (b) where P is a person to whom paragraph (4) applies, an appropriate person acting on behalf of P.

(4) This paragraph applies to a person if they—

- (a) are a child, or
- (b) lack the capacity to make a request under paragraph (1).

(5) The contractor must respond to a valid exemption confirmation request—

- (a) free of charge to P or the appropriate person, and
- (b) by recording its response on an information hub using a method approved by the Secretary of State.

(6) A contractor is not required to respond to a valid exemption confirmation request if—

- (a) for the medical condition which may mean that P should neither be tested for coronavirus nor vaccinated with an authorised vaccine, or should not be vaccinated with an authorised vaccine, P is being attended by a medical practitioner who is not—

---

(a) Regulation 64(8) was amended by S.I. 2020/226.

(b) Regulation 66 was substituted by S.I. 2020/226.

(c) The symptom checker is currently available at: <https://www.nhs.uk/conditions/>

(d) Full details of the process will be made available on [www.gov.uk](http://www.gov.uk) before 1st October 2021.

- (i) engaged or employed by the contractor,
  - (ii) in the case of a contract with two or more persons practising in partnership, one of those persons, or
  - (iii) in the case of a contract with a company limited by shares, one of the persons legally or beneficially owning shares in that company, and
- (b) that medical condition is not one to which paragraph (7) applies.
- (7) This paragraph applies to a medical condition if no person with that condition should be—
- (a) tested for coronavirus or vaccinated with an authorised vaccine, or
  - (b) vaccinated with an authorised vaccine.
- (8) In this regulation—
- “authorised vaccine” means a medicinal product—
- (a) authorised for supply in the United Kingdom in accordance with a marketing authorisation, or
  - (b) authorised by the licensing authority on a temporary basis under regulation 174 of the Human Medicines Regulations 2012 (supply in response to spread of pathogenic agents etc),
- for vaccination against coronavirus;
- “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- “licensing authority”, “marketing authorisation” and “medicinal product” have the meanings given in the Human Medicines Regulations 2012 (see regulations 6, 8 and 2, respectively, of those Regulations);
- “relevant patient” means—
- (a) a registered patient, or
  - (b) a temporary resident.”.

## PART 6

### Transfer of patient records

#### **Transfer of patient records: time limits**

13. After regulation 62, insert—

#### **“Transfer of patient records between GP practices: time limits**

- 62A.**—(1) This regulation applies where—
- (a) a patient on a contractor’s list of patients has registered with another provider of primary medical services, and
  - (b) the contractor receives a request from that provider for the complete records relating to that patient.
- (2) The contractor must, before the end of the period of 28 days beginning with the day on which it receives the request from the provider—
- (a) send the complete records (other than any part of the records held only in paper form) to the provider via the GP2GP facility in accordance with regulation 62, and
  - (b) send to the Board in accordance with regulation 60(6A), the complete records, or any part of the records—
    - (i) for which the contractor does not receive a confirmation, or
    - (ii) held only in paper form.

(3) In this regulation—

“confirmation”, in relation to records sent via the GP2GP facility, means confirmation of safe and effective transfer via that facility;

“GP2P facility” has the same meaning as in paragraph (2) of regulation 62.”.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862) (“the GMS Regulations”) and the National Health Service (Personal Medical Services Agreements) Regulations 2015 (S.I. 2015/1879) (“the PMS Regulations”), which respectively make provision in respect of services provided under a general medical services contract and a personal medical services agreement pursuant to Part 4 of the National Health Service Act 2006 (c. 41). They apply in relation to England only.

The GMS Regulations and the PMS Regulations are amended so that such a contract or an agreement must contain a term requiring certain persons (medical practitioners and other individuals providing services pursuant to or in support of the contract or agreement) to disclose certain information to the Health and Social Care Information Centre (commonly known as NHS Digital) at a specified time if their annual earnings exceed a specified threshold. The Regulations also prescribe how those earnings are to be calculated. Similar provision is also required to be included in certain sub-contracts. (See Part 1 of Schedule 1 and Part 1 of Schedule 2.)

The GMS Regulations and the PMS Regulations are also amended—

- (a) to make provision for certain Crown servants who are posted overseas who are returning to the United Kingdom from their posting, and certain of their family members, to make an application to re-register with their GP practice either prior to their return or within three months of their return, or to make an advance application to register with a new GP practice (Part 2 of Schedule 1 and Part 2 of Schedule 2),
- (b) to make provision for certain Crown servants who are posted overseas, and certain of their family members, who are returning to the United Kingdom for no more than three months to make an advance application to register as a temporary resident with a GP practice whilst they are in the United Kingdom (Part 2 of Schedule 1 and Part 2 of Schedule 2),
- (c) to remove the patient consent requirement in relation to electronic repeat dispensing (Part 3 of Schedule 1 and Part 3 of Schedule 2),
- (d) to require contractors to have a secure method for communicating electronically with their patients, to put in place an online consultation tool for use by their patients, to put in place a video conferencing facility and to provide an electronic facility for patients to notify them of a change to their personal details (Part 4 of Schedule 1 and Part 4 of Schedule 2),
- (e) to require contractors to provide certificates of exemption from any requirement to be tested for, or vaccinated against, coronavirus to patients free of charge (Part 5 of Schedule 1 and Part 5 of Schedule 2), and
- (f) where a patient registers with a new practice, to require that the patient’s medical records are sent to the new practice within 28 days of the records being requested (Part 6 of Schedule 1 and Part 6 of Schedule 2).

Consequential and other minor amendments are also made to the GMS Regulations and the PMS Regulations. Minor amendments are also made to the GMS Regulations to correct drafting errors reported by the Joint Committee on Statutory Instruments in their Second Report of the 2021-22 Session (Part 6 of Schedule 1). Regulation 3 makes related transitional provision.

A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

---

© Crown copyright 2021

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.