
STATUTORY INSTRUMENTS

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

| | | |
|-------------------------------|---------|---|
| <i>Made</i> | - - - - | <i>at 8.30 a.m. on 7th September 2021</i> |
| <i>Laid before Parliament</i> | | <i>at 1.00 p.m. on 7th September 2021</i> |
| <i>Coming into force</i> | - - | <i>on 1st October 2021</i> |

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(1).

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(2) 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

(1) [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.

(2) [S.I. 2015/1862](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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.

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

4. The National Health Service (Personal Medical Services Agreements) Regulations 2015(3) 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⁽⁴⁾ 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⁽⁵⁾ 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;

(4) 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>.

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (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) 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,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(6);

"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) 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;