Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2007 No. (N.I.)

NORTHERN IRELAND

The Health (Miscellaneous Provisions) (Northern Ireland) Order 2007

Made - - - - 2007
Coming into operation in accordance with Article 1(2) to (4)

At the Court at Buckingham Palace, the ** day of ** 2007

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:–

Introductory

Title and commencement

1.—(1) This Order may be cited as the Health (Miscellaneous Provisions) (Northern Ireland) Order 2007.

(2) This Article and Articles 2 and 18 come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The following provisions come into operation on such day or days as the Department may by order appoint—

(a) Articles 4 to 9;

(b) Articles 16(1) to (3) and 17;

(c) Part I of Schedule 2, and Article 19 so far as it relates thereto.

(4) The remaining provisions of this Order come into operation on the expiration of one month from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the Department" means the Department of Health, Social Services and Public Safety;

"the Order of 1972" means the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14).

Primary medical services

Persons performing primary medical services: listing subject to conditions

3. In Article 57G of the Order of 1972 (persons performing primary medical services), after paragraph (3) insert—

"(3A) Regulations under paragraph (1) may, in particular, also provide for—

(a) a person's inclusion or continued inclusion in a list to be subject to conditions determined by a Health and Social Services Board;

(b) a Board to vary the conditions or impose different ones;

(c) the consequences of failing to comply with a condition (including removal from a list);

(d) the review by a Board of decisions made by it by virtue of the regulations.

(3B) The imposition of such conditions may be with a view to—

(a) preventing any prejudice to the efficiency of the services to which the list relates, or

(b) preventing fraud.".

Dental services

Provision of dental services

4.—(1) After Article 60 of the Order of 1972 (prohibition of sale of, etc. medical practices), omit the cross-heading "General Dental Services, General Ophthalmic Services and Pharmaceutical Services" and insert—

"Primary dental services

Primary dental services

60A.—(1) Each Health and Social Services Board shall, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary dental services within its area, or secure their provision within its area.

(2) A Health and Social Services Board may (in addition to any other power conferred on it)—

(a) provide primary dental services itself (whether within or outside its area);

(b) make such arrangements for their provision (whether within or outside its area) as it thinks fit, and may in particular make contractual arrangements with any person.

(3) Each Health and Social Services Board shall publish information about such matters as may be prescribed in relation to the primary dental services provided under this Part.

(4) A body on which functions are conferred under this Article shall co-operate with any other such body in the discharge of their respective functions relating to the provision of primary dental services under this Part.

(5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary dental services for the purposes of this Part.

(6) Regulations under this Article may in particular describe services by reference to the manner or circumstances in which they are provided.".

(2) For Article 61 of the Order of 1972 (arrangements for general dental services) substitute—

"General dental services contracts

General dental services contracts: introductory

61.—(1) A Health and Social Services Board may enter into a contract under which primary dental services are provided in accordance with the following provisions of this Part.

(2) A contract under this Article is called in this Order a "general dental services contract".

(3) Subject to any provision made by or under this Part, a general dental services contract may make such provision as may be agreed between the Health and Social Services Board and the contractor or contractors in relation to—

(a) the services to be provided under the contract,

(b) remuneration under the contract, and

(c) any other matters.

(4) The services to be provided under a general dental services contract may include—

(a) services which are not primary dental services;

(b) services to be provided outside the area of the Health and Social Services Board.

(5) In this Part, "contractor", in relation to a general dental services contract, means any person entering into the contract with the Health and Social Services Board.

Requirement to provide certain primary dental services

61A.—(1) A general dental services contract shall require the contractor or contractors to provide, for his or their patients, primary dental services of such descriptions as may be prescribed.

(2) Regulations under paragraph (1) may in particular prescribe services by reference to the manner or circumstances in which they are provided.

Persons eligible to enter into general dental services contracts

61B.—(1) A Health and Social Services Board may, subject to such conditions as may be prescribed, enter into a general dental services contract with—

(a) a dental practitioner;

(b) a dental corporation;

(c) two or more individuals practising in partnership where the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(c) in relation to a partnership are that—

(a) at least one partner is a dental practitioner; and

(b) any partner who is not a dental practitioner is either—

(i) an HSS employee;

(ii) an Article 15B employee, a section 28C employee or a section 17C employee;

(iii) a health care professional who is engaged in the provision of services under this Order; or

(iv) an individual falling within Article 15C(1)(c)(iii).

(3) Regulations may make provision as to the effect, in relation to a general dental services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.

(4) In this Article—

"dental corporation" means a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry;

"health care professional" has the same meaning as in Article 15C;

"HSS employee", "Article 15B employee", "section 28C employee" and "section 17C employee" have the same meaning as in Article 15C.

General dental services contracts: payments

61C.—(1) The Department may give directions as to payments to be made under general dental services contracts.

(2) A general dental services contract must require payments to be made under the contract in accordance with directions for the time being in force under this Article.

(3) Without prejudice to the generality of the power under paragraph (1) directions under that paragraph may—

(a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;

(b) provide for payments to be made by reference to—

(i) any scheme or scale specified in the direction; or

(ii) a determination made by any person in accordance with factors specified in the direction;

(c) provide for the making of payments in respect of individual practitioners;

(d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Health and Social Services Board only if it is satisfied as to certain conditions);

(e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.

(4) Before giving a direction under paragraph (1), the Department—

(a) shall consult any body appearing to it to be representative of persons to whose remuneration the direction would relate, and

(b) may consult such other persons as it thinks appropriate.

(5) References in this Article to payments include fees, allowances, reimbursements, loans and repayments.

General dental services contracts: other required terms

61D.—(1) A general dental services contract shall contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

(2) Regulations under paragraph (1) may in particular make provision as to—

(a) the manner in which, and standards to which, services are to be provided;

(b) the persons who perform services;

(c) the persons to whom services are to be provided;

(d) the variation of contract terms (other than terms required by or under this Part);

(e) rights of entry and inspection (including inspection of clinical records and other documents);

(f) the circumstances in which, and the manner in which, the contract may be terminated;

(g) enforcement;

(h) the adjudication of disputes.

(3) Regulations under paragraph (2)(d) may make provision as to the circumstances in which a Health and Social Services Board may impose a variation of contract terms.

(4) Regulations under paragraph (1) shall make provision as to the right of patients to choose the persons from whom they are to receive services.

General dental services contracts: disputes and enforcement

61E.—(1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general dental services contract.

(2) Regulations under paragraph (1) may make provision—

(a) for the referral of the terms of the proposed contract to the Department; and

(b) for the Department, or a person appointed by it, to determine the terms on which the contract may be entered into.

(3) Regulations may make provision for a person or persons entering into a general dental services contract to be regarded as a health and social services body for any purposes of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991, in circumstances where he or they so elect.

(4) Regulations under paragraph (3) may include provision as to the application of Article 8 of that Order in cases where—

(a) persons practising in partnership elect to become a health and social services body; and

(b) there is a change in the membership of the partnership.

(5) Where—

(a) by virtue of regulations under paragraph (3), paragraph (8) of Article 8 of that Order applies in relation to a general dental services contract, and

(b) a direction as to payments is made under that paragraph in relation to the contract,

the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.