

2022 No. 935

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (General Medical Services
Contracts and Personal Medical Services Agreements)
(Amendment) (No. 3) Regulations 2022**

Made - - - - at 9.11 a.m. on 2nd September 2022

Laid before Parliament at 2.45 p.m. on 2nd September 2022

Coming into force 1st October 2022

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 89, 94 and 272(7) and (8) of the National Health Service Act 2006(a).

Citation, commencement and extent

1. These Regulations—

- (a) may be cited as the National Health Service (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) (No. 3) Regulations 2022;
- (b) come into force on 1st October 2022; and
- (c) extend to England and Wales.

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.

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

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

(a) 2006 c. 41. Section 94 was amended by section 28 of, paragraph 11 of Schedule 3 to 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; relevant amending instruments are S.I. 2017/908, 2018/844, 2019/1137, 2020/226, 2021/331, 2021/995, 2022/404.

(c) S.I. 2015/1879; relevant amending instruments are S.I. 2017/908, 2018/844, 2019/1137, 2021/995 and 2022/404.

SCHEDULE 1

Regulation 2

Amendments to the National Health Service (General Medical Services Contracts) Regulations 2015

Alternative premises for remote provision of services

1. In regulation 3(1) (interpretation), at the appropriate places, insert—

““GPIT Operating Model” means the document entitled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England(a);”;

““remote consultation” means a consultation under the contract in which a patient, or their representative, participates by any means permitted under the contract, other than in person;”;

““remote service” means a service under the contract which is—

- (a) an online consultation under regulation 71ZD;
- (b) a secure electronic communication under regulation 71ZE;
- (c) a video consultation under regulation 71ZF;
- (d) a telephone consultation;
- (e) an electronic prescription;
- (f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the contract;”.

2. In regulation 20(4) (services: general)—

(a) after sub-paragraph (a), omit “or”;

(b) at the end of sub-paragraph (b), insert—

“; or

(c) premises where services are provided under regulation 20A (services: remote provision outside practice premises).”.

3. After regulation 20 insert—

“Services: remote provision outside practice premises

20A.—(1) Without prejudice to regulation 17(7) (essential services) and paragraph 5 of Schedule 3 (attendance outside practice premises), the contractor and any sub-contractor may provide a remote service from a location which does not constitute practice premises, if the requirements in paragraph (2) are met.

(2) The requirements referred to in paragraph (1) are that—

- (a) the service is provided from an appropriate location;

(a) The document, published in July 2022, which sets out the commissioning framework for the provision of general practice digital services, 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-2021-2023>. 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, PO Box 16738, Redditch, B97 9PT.

- (b) the service is provided through an appropriate digital or telecommunications method; and
 - (c) the service is appropriate for provision outside of practice premises.
- (3) For the purposes of paragraph (2)(a), a location is not appropriate if—
- (a) the location or its environment is not conducive to ensuring the confidentiality of patient information, in connection with the service to be provided from that location;
 - (b) the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- (4) For the purposes of paragraph (2)(b), a digital or telecommunications method is appropriate if it meets—
- (a) the requirements in the GPIT Operating Model relevant to that method, including any requirements as to software, or
 - (b) requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model.
- (5) For the purposes of paragraph (2)(c) the service is not appropriate for provision outside of practice premises if—
- (a) it would not be clinically appropriate for the patient on that occasion; or
 - (b) it is otherwise not appropriate to the needs or circumstances of the patient.
- (6) For the purposes of paragraph (3)(a), “patient information” means information which relates to the physical or mental health or condition of a patient, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.”.

4. In regulation 67(3) (patient records)—

- (a) for sub-paragraph (a), substitute—
 - “(a) the computer system upon which the contractor proposes to keep the records meets the requirements set out in the GPIT Operating Model;”;
- (b) in sub-paragraph (b), for “as accredited in accordance with sub-paragraph (a)” substitute “and compliant with the GPIT Operating Model”.

5. In regulation 70(3) (clinical correspondence: requirement for NHS number), in the definition of “clinical correspondence”, after “of” insert “the provision of a remote service or”.

6. In regulation 71ZG (meaning of “appropriate software” for the purposes of regulations 71ZD, 71ZE and 71ZF), omit paragraph (2).

7. In Schedule 3 (other contractual terms)—

- (1) for paragraph 4(2)(b) (attendance at practice premises), substitute—
 - “(b) the patient is—
 - (i) offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the contractor’s practice premises again or participate in a telephone or video consultation; or
 - (ii) invited to make a request via an online consultation system, and the patient’s health would not thereby be jeopardised.”;
- (2) in paragraph 6(1) (newly registered patients), after “in” insert “a remote consultation or”;
- (3) in paragraph 10(2) (patients aged 75 and over), after “premises” insert “or to participate in a remote consultation”;
- (4) in paragraph 11A (NHS e-Referral Service (e-RS)), omit “premises” wherever it appears;
- (5) in paragraph 15(2)(c)(i) (duty of co-operation), omit “premises”;

(6) in paragraph 44(3)(d) (sub-contracting of clinical matters), for “for the provision of services” substitute “as practice premises”;

(7) in paragraph 45(4)(b) (sub-contracting out of hours services), for “for the provision of services” substitute “as practice premises”; and

(8) in paragraph 48(j) (information to be included in practice leaflets), before “premises” insert “practice”.

Pay transparency

8. In regulation 3(1) (interpretation), in the definition of “contract”, after “regulation 96” insert “and in the definitions of “contract of engagement” and “third party contract” in regulation 27AA”.

9. In regulation 27A (disclosure of information about NHS earnings: contractors and sub-contractors)—

(1) in paragraph (3)—

(i) in sub-paragraph (b) omit “subject to paragraph (ba),”;

(ii) in sub-paragraph (b), in paragraph (i), for “2020” substitute “2022”;

(iii) omit sub-paragraph (ba);

(iv) in sub-paragraph (c), omit paragraph (i);

(2) for paragraph (4), substitute—

“(4) For the purposes of paragraph (3)(a) “the disclosure date”, in relation to a relevant financial year, is 30th April in the financial year which begins immediately after the end of the next financial year.”;

(3) in paragraph (8)(b), for “this regulation comes into force” substitute “the term in paragraph (7) is incorporated into the contract”;

(4) at the end of paragraph (9)(a), omit “and”;

(5) in paragraph (9)(b)(i), after “I’s” insert “NHS”; and

(6) at the end of paragraph (9)(b), insert—

“, and

(c) a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in sub-paragraph (b) was incorporated into that sub-contract is amended to—

(i) include the term in paragraph (i) of sub-paragraph (b) in a sub-contract between S and I, and

(ii) include the term in paragraph (ii) of sub-paragraph (b) in a sub-contract between S and a partnership.”.

10. After regulation 27A insert—

“Disclosure of information about NHS earnings: jobholders

27AA.—(1) In this regulation—

(a) “disclosure obligation”, “relevant financial year”, “relevant threshold”, “the disclosure date” and “sub-contractor” have the meanings given in regulation 27A;

(b) “NHS earnings” has the meaning given in regulation 27B.

(2) In this regulation and, where applicable, in regulation 27B—

“contract of engagement” means a contract of employment or other agreement under which a jobholder is engaged;

“jobholder” means—

- (a) an individual employed by a relevant person;
- (b) an individual engaged by a relevant person under a contract for services to provide services which enable the relevant person to fulfil its obligations under the contract or sub-contract, as the case may be;
- (c) an individual engaged by a third party to provide clinical services;
- (d) where the relevant person is a company, a director or company secretary of that company;

“relevant person” means—

- (a) the contractor;
- (b) a sub-contractor;
- (c) a person to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 44(9A) of Schedule 3 (“P”);

“third party contract” means a contract or other agreement under which a relevant person is provided with a jobholder to provide clinical services under the contract or sub-contract, as the case may be, and which is between—

- (a) a contractor and a person other than a jobholder or sub-contractor,
- (b) a sub-contractor and a person other than a jobholder, the contractor, or a person (“P”) to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 44(9A) of Schedule 3, or
- (c) P and a person other than a jobholder or sub-contractor;

“third party” is to be construed in accordance with the definition of “third party contract”.

(3) A contract must contain a term which prevents the contractor from entering into a contract of engagement unless it requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

(4) A contract must also contain a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the contract unless—

- (a) the sub-contract entered into by the contractor requires the sub-contractor (“S”) to—
 - (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after entering into the sub-contract, and
 - (ii) use reasonable endeavours to include that term in any contract of engagement which S has entered into prior to entering into the sub-contract, and
- (b) the sub-contract prevents S from sub-contracting to P any of the clinical services S has agreed with the contractor to provide under the sub-contract unless the sub-contract S enters into with P includes the term specified in paragraph (5).

(5) The term requires P to—

- (a) include the term specified in paragraph (6) in any contract of engagement which P enters into with a jobholder on or after entering into the sub-contract with S, and
- (b) use reasonable endeavours to include that term in any contract of engagement which P has entered into prior to entering into that sub-contract.

(6) The term requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

(7) A contract must also contain a term requiring the contractor to use reasonable endeavours to ensure that any contract of engagement, which the contractor entered into before the term in paragraph (3) is incorporated into the contract is amended to include the term specified in paragraph (6).

(8) A contract must also contain a term requiring the contractor to use reasonable endeavours to ensure that any sub-contract which the contractor entered into before the term in paragraph (4) is incorporated into the contract is amended to include the terms specified in paragraph (9).

(9) The terms are—

(a) a term which requires S to—

- (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after the amendment of the sub-contract,
- (ii) use reasonable endeavours to include the term specified in paragraph (6) in any contract of engagement which S entered into before the amendment of the sub-contract, and
- (iii) use reasonable endeavours to include the term specified in paragraph (5) in any sub-contract which S has entered into with P before the amendment of the sub-contract pursuant to paragraph (8);

(b) a term which prevents S from sub-contracting to P obligations to provide clinical services under the contract unless the sub-contract entered into by S includes the term specified in paragraph (5).

(10) A contract must also contain a term requiring the contractor to use reasonable endeavours to include in a third party contract (whenever entered into) a term requiring the third party (“T”) to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(11) A contract must also contain a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the contract, unless the sub-contract requires S to use reasonable endeavours to—

- (a) include in a third party contract (whenever entered into) a term requiring T to include the term specified in paragraph (6) in any contract of engagement to which T is a party, and
- (b) include in any sub-contract between S and P a term requiring P to include in any third party contract (whenever entered into) the term specified in paragraph (12).

(12) The term is one which requires T to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(13) Nothing in this regulation requires a jobholder to comply with the disclosure obligation for any relevant financial year which—

- (a) ends before the jobholder enters into a contract of engagement;
- (b) begins after the jobholder’s contract of engagement has terminated.”.

11. In regulation 27B (calculation of NHS earnings for the purposes of regulation 27A)—

- (a) in the heading, for “regulation 27A” substitute “regulations 27A and 27AA”;
- (b) in paragraph (1), for “regulation 27A” substitute “regulations 27A and 27AA”;
- (c) in paragraph (3)—

- (i) in sub-paragraph (b)(ii), after “any”, in the first place it occurs, insert “other”;
- (ii) after sub-paragraph (b) insert—

“(ba) in relation to a jobholder who does not fall within sub-paragraph (a) or (b), means—

- (i) any remuneration, salary, wages, fees, director’s remuneration or dividends received in respect of the financial year in question under the contract of engagement and any other contract of engagement under which the jobholder provides services in respect of a contract or an agreement for primary medical services made under section 83(2) or 92 of the Act, and

- (ii) any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with paragraph (4) in respect of the financial year in question if the jobholder—
 - (aa) were an active member of the scheme, and
 - (bb) a medical practitioner or non-GP provider;”;
- (d) in paragraph (4)—
 - (i) at the end of sub-paragraph (a) insert “and”;
 - (ii) in sub-paragraph (b) omit “and”;
 - (iii) omit sub-paragraph (c);
- (e) after paragraph (4) insert—
 - “(4A) For the purposes of this regulation, where a contractor has sub-contracted any obligations under the contract, any payments made—
 - (a) under the sub-contract, or
 - (b) under any sub-contract which the sub-contractor has entered into with another person, as permitted by paragraph 44(9A) of Schedule 3, are to be treated as income derived from the contract.”.

Directly bookable appointments

12. In regulation 3(1) (interpretation), at the appropriate place, insert—

““directly bookable appointment” means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments – guidance for practices” issued by NHS England^(a), is available for booking by a registered patient or an appropriate person on their behalf;”.

13. In regulation 71(3)(a) (patient online services: appointments and prescriptions), for “a minimum of 25% of its appointments per day during core hours” substitute “all of its directly bookable appointments”.

14. After regulation 71A (patient access to online services) insert—

“Patient access: other availability of directly bookable appointments

71B. A contractor must ensure that all of its directly bookable appointments are made available for booking by telephone or in person.”.

Electronic application for inclusion in a contractor’s list of patients

15. In Schedule 3 (other contractual terms), in paragraph 18 (application for inclusion in a list of patients), for sub-paragraph (3), substitute—

“(3) Subject to sub-paragraph (4), an application for inclusion in a contractor’s list of patients may be made by the applicant or a person authorised by the applicant submitting a medical card or an application form, including an electronic application form, to the contractor.”.

(a) This guidance, published in September 2022, is available at <https://www.england.nhs.uk/gp/investment/gp-contract/digital-requirements-guidance/>. Hard copies are available from NHS England, Digital First Primary Care team, Wellington House, 133-155 Waterloo Road, South Bank, London, SE1 8UG.

Amendment to list of indicators no longer in the Quality and Outcomes Framework

16. In regulation 74C (information relating to indicators no longer in the Quality and Outcomes Framework), in the table, omit—

- (a) “Clinical domain”;
- (b) “MH005” in the left hand column (indicator ID); and
- (c) the entry in the right hand column (indicator description) corresponding to the indicator ID MH005.

SCHEDULE 2

Regulation 3

Amendments to the National Health Service (Personal Medical Services Agreements) Regulations 2015

Alternative premises for remote provision of services

1. In regulation 3 (interpretation), at the appropriate places, insert—

““GPIT Operating Model” means the document entitled “Securing Excellence in Primary Care (GP) Digital Services: The Primary Care (GP) Digital Services Operating Model 2021-23 V5” issued by NHS England(a);” and

““remote service” means—

- (a) an online consultation under regulation 64ZD;
- (b) a secure electronic communication under regulation 64ZE;
- (c) a video consultation under regulation 64ZF;
- (d) a telephone consultation;
- (e) an electronic prescription;
- (f) any other service which can be provided through a digital or telecommunications method, including administrative tasks in support of the agreement;”.

2. In regulation 13(3) (agreements: general)—

(a) after sub-paragraph (a) omit “or”;

(b) at the end of sub-paragraph (b) insert—

“; or

(c) premises where services are provided under regulation 13A (services: remote provision outside practice premises).”.

3. After regulation 13 insert—

“Services: remote provision outside practice premises

13A.—(1) Without prejudice to regulation 17(7) (essential services) of the General Medical Services Contracts Regulations, where applicable, and without prejudice to paragraph 6 of Schedule 2 (attendance outside practice premises), the contractor and any sub-contractor may provide a remote service from a location which does not constitute practice premises, if the requirements in paragraph (2) are met.

(a) The document, published in July 2022, which sets out the commissioning framework for the provision of general practice digital services, 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-2021-2023>. 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, PO Box 16738, Redditch, B97 9PT.

- (2) The requirements referred to in paragraph (1) are that—
 - (a) the service is provided from an appropriate location;
 - (b) the service is provided through an appropriate digital or telecommunications method; and
 - (c) the service is appropriate for provision outside of practice premises.
- (3) For the purposes of paragraph (2)(a), a location is not appropriate if—
 - (a) the location or its environment is not conducive to ensuring the confidentiality of patient information, in connection with the service to be provided from that location;
 - (b) the location or its environment is not conducive to ensuring appropriate provision of the service from that location.
- (4) For the purposes of paragraph (2)(b), a digital or telecommunications method is appropriate if it meets—
 - (a) the requirements in the GPIT Operating Model relevant to that method, including any requirements as to software, or
 - (b) requirements which are equivalent in their effect to the relevant requirements in the GPIT Operating Model;
- (5) For the purposes of paragraph (2)(c) the service is not appropriate for provision outside of practice premises if—
 - (a) it would not be clinically appropriate for the patient on that occasion; or
 - (b) it is otherwise not appropriate to the needs or circumstances of the patient.
- (6) For the purposes of paragraph (3)(a), “patient information” means information which relates to the physical or mental health or condition of a patient, to the diagnosis of their condition, to their care and treatment, or information which is to any extent derived, directly or indirectly, from such information.”.

4. In regulation 60(4) (patient records)—

- (1) for sub-paragraph (a), substitute—

“(a) the computer system upon which the contractor proposes to keep the records meets the requirements set out in the GPIT Operating Model;”;

- (2) in sub-paragraph (b) for “as accredited in accordance with sub-paragraph (a)” substitute “and compliant with the GPIT Operating Model”.

5. In regulation 63(3) (clinical correspondence: requirement for NHS number), in the definition of “clinical correspondence”, after “of” insert “the provision of a remote service or”.

6. In regulation 64ZG (meaning of “appropriate software” for the purposes of regulation 64ZD, 64ZE and 64ZF), omit paragraph (2).

7. In Schedule 2 (other required terms)—

- (1) for paragraph 5(2)(b) (attendance at practice premises), substitute—

“(b) the patient is—

- (i) offered an appointment, for a time which is appropriate and reasonable having regard to all the circumstances, to attend the contractor’s practice premises again or participate in a telephone or video consultation; or
- (ii) invited to make a request via an online consultation system, and the patient’s health would not thereby be jeopardised.”;

- (2) in paragraph 10(2)(c)(i) (duty of co-operation), omit “premises”;

- (3) in paragraph 16A (NHS e-Referral Service (e-RD)), omit “premises” wherever it appears;

- (4) in paragraph 43(3) (sub-contracting of clinical matters) after “sub-contractor” insert “as practice premises”; and

(5) in paragraph 44 (information to be included in a practice leaflet) for all references to “premises” substitute “practice premises”.

Pay transparency

8. In regulation 3 (interpretation), in the definition of “agreement”, after “regulation 88” insert “or in the definitions of “contract of engagement” and “third party contract” in regulation 21AA”.

9. In regulation 21A (disclosure of information about NHS earnings: contractors and sub-contractors)—

(1) in paragraph (3)—

- (i) in sub-paragraph (b) omit “subject to paragraph (ba),”;
- (ii) in sub-paragraph (b), in paragraph (i), for “2020” substitute “2022”;
- (iii) omit sub-paragraph (ba);
- (iv) in sub-paragraph (c), omit paragraph (i);

(2) for paragraph (4), substitute—

“(4) For the purposes of paragraph (3)(a) “the disclosure date”, in relation to a relevant financial year, is 30th April in the financial year which begins immediately after the end of the next financial year.”;

(3) in paragraph (8)(b), for “this regulation comes into force” substitute “the term in paragraph (7) is incorporated into the contract”;

(4) at the end of paragraph (9)(a), omit “and”;

(5) in paragraph (9)(b)(i), after “I’s” insert “NHS”; and

(6) at the end of paragraph (9)(b), insert—

“, and”;

(c) a term which requires S to use reasonable endeavours to ensure that any sub-contract entered into before the term in sub-paragraph (b) was incorporated into that sub-contract is amended to—

- (i) include the term in paragraph (i) of sub-paragraph (b) in a sub-contract between S and I, and
- (ii) include the term in paragraph (ii) of sub-paragraph (b) in a sub-contract between S and a partnership.”.

10. After regulation 21A insert—

“Disclosure of information about NHS earnings: jobholders

21AA.—(1) In this regulation—

- (a) “disclosure obligation”, “relevant financial year”, “relevant threshold”, “the disclosure date” and “sub-contractor” have the meanings given in regulation 21A;
- (b) “NHS earnings” has the meaning given in regulation 21B.

(2) In this regulation and, where applicable, in regulation 21B—

“contract of engagement” means a contract of employment or other agreement under which a jobholder is engaged;

“jobholder” means—

- (a) an individual employed by a relevant person;
- (b) an individual engaged by a relevant person under a contract for services to provide services which enable the relevant person to fulfil its obligations under the agreement or sub-contract, as the case may be;
- (c) an individual engaged by a third party to provide clinical services;

(d) where the relevant person is a company, a director or company secretary of that company;

“relevant person” means—

- (a) the contractor;
- (b) a sub-contractor;
- (c) a person to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 43(4A) of Schedule 2 (“P”);

“third party contract” means a contract or other agreement under which a relevant person is provided with a jobholder to provide clinical services under the agreement or sub-contract, as the case may be, and which is between—

- (a) a contractor and a person other than a jobholder or sub-contractor,
- (b) a sub-contractor and a person other than a jobholder, the contractor, or a person (“P”) to whom the sub-contractor has sub-contracted obligations as permitted by paragraph 43(4A) of Schedule 2, or
- (c) P and a person other than a jobholder or sub-contractor;

“third party” is to be construed in accordance with the definition of “third party contract”.

(3) An agreement must contain a term which prevents the contractor from entering into a contract of engagement unless it requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

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

- (a) the sub-contract entered into by the contractor requires the sub-contractor (“S”) to—
 - (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after entering into the sub-contract, and
 - (ii) use reasonable endeavours to include it in any contract of engagement which S has entered into prior to entering into the sub-contract; and
- (b) the sub-contract prevents S from sub-contracting to P any of the clinical services S has agreed with the contractor to provide under the sub-contract unless the sub-contract S enters into with P includes the term specified in paragraph (5);

(5) The term requires P to—

- (a) include the term specified in paragraph (6) in any contract of engagement which P enters into with a jobholder on or after entering into the sub-contract with S, and
- (b) to use reasonable endeavours to include it in any contract of engagement which P has entered into prior to entering into that sub-contract.

(6) The term requires the jobholder to comply with the disclosure obligation for each relevant financial year in which the jobholder’s NHS earnings exceed the relevant threshold.

(7) An agreement must also contain a term requiring the contractor to use reasonable endeavours to ensure that any contract of engagement, which the contractor entered into before the term in paragraph (3) is incorporated into the agreement, is amended to include the term specified in paragraph (6).

(8) An agreement must also contain a term requiring the contractor to use reasonable endeavours to ensure that any sub-contract which the contractor entered into before the term in paragraph (4) is incorporated into the agreement is amended to include the terms specified in paragraph (9).

(9) The terms are—

- (a) a term which requires S to—

- (i) include the term specified in paragraph (6) in any contract of engagement S enters into with a jobholder on or after the amendment of the sub-contract,
 - (ii) to use reasonable endeavours to include the term specified in paragraph (6) in any contract of engagement to which S is a party entered into before the amendment of the sub-contract, and
 - (iii) use reasonable endeavours to include the term specified in paragraph (5) in any sub-contract which S has entered into with P before the amendment of the sub-contract pursuant to paragraph (8);
- (b) a term which prevents S from sub-contracting to P obligations to provide clinical services under the agreement unless the sub-contract entered into by S includes the term specified in paragraph (5).

(10) An agreement must also contain a term requiring the contractor to use reasonable endeavours to include in a third party contract (whenever entered into) a term requiring the third party (“T”) to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(11) An agreement must also contain a term which prevents the contractor from sub-contracting any of its obligations to provide clinical services under the agreement, unless the sub-contract requires S to use reasonable endeavours to—

- (a) include in a third party contract (whenever entered into) a term requiring T to include the term specified in paragraph (6) in any contract of engagement to which T is a party; and
- (b) include in any sub-contract between S and P a term requiring P to include in any third party contract (whenever entered into) the term specified in paragraph (12).

(12) The term is one which requires T to include the term specified in paragraph (6) in any contract of engagement to which T is a party.

(13) Nothing in this regulation requires a jobholder to comply with the disclosure obligation for any relevant financial year which—

- (a) ends before the jobholder enters into a contract of engagement;
- (b) begins after the jobholder’s contract of engagement has terminated.”.

11. In regulation 21B (calculation of NHS earnings for the purposes of regulation 21A)—

(1) in the heading, for “regulation 21A” substitute “regulations 21A and 21AA”;

(2) in paragraph (1), for “regulation 21A” substitute “regulations 21A and 21AA”;

(3) in paragraph (3)—

- (a) in sub-paragraph (b)(ii), after “any”, in the first place it occurs, insert “other”;
- (b) after sub-paragraph (b) insert—

“(ba) in relation to a jobholder who does not fall within sub-paragraph (a) or (b), means—

- (i) any remuneration, salary, wages, fees, director’s remuneration or dividends received in respect of the financial year in question under the contract of engagement and any other contract of engagement under which the jobholder provides services in respect of a contract or an agreement for primary medical services made under section 92 or 83(2) of the Act, and
- (ii) any other income which would be treated as practitioner income under Schedule 10 to the NHS Pension Scheme Regulations as modified in accordance with paragraph 4 in respect of the financial year in question if the jobholder—
 - (aa) were an active member of the scheme, and
 - (bb) a medical practitioner or non-GP provider;”;

(4) in paragraph (4)—

- (i) at the end of sub-paragraph (a) insert “and”;
 - (ii) in sub-paragraph (b) omit “and”;
 - (iii) omit sub-paragraph (c);
- (5) after paragraph (4) insert—
- “(4A) For the purposes of this regulation, where a contractor has sub-contracted any obligations under the agreement, any payments made—
- (a) under the sub-contract, or
 - (b) under any sub-contract which the sub-contractor has entered into with another person, as permitted by paragraph 43(4A) of Schedule 2,
- are to be treated as income derived from the agreement.”;
- (6) in paragraph (5), in the definition of “relevant year”, for “27A” substitute “21A”.

Removal of requirement for orders of buprenorphine or diazepam or certain other controlled drugs to be made by non-electronic prescription form

12. In regulation 49, in paragraph (10), in sub-paragraph (a) (orders for drugs, medicines or appliances), omit “non-electronic”.

Directly bookable appointments

13. In regulation 3 (interpretation), at the appropriate place, insert—

““directly bookable appointment” means an appointment of a type which, in line with the guidance entitled “Directly bookable appointments – guidance for practices” issued by NHS England^(a), is available for booking by a registered patient or an appropriate person on their behalf;”.

14. In regulation 64(3)(a) (patient online services: appointments and prescriptions), for “a minimum of 25% of its appointments per day during core hours” substitute “all of its directly bookable appointments”.

15. After regulation 64A (patient access to online services) insert—

“Patient access: other availability of directly bookable appointments

64B. A contractor must ensure that all of its directly bookable appointments are made available for booking by telephone or in person.”.

Electronic application for inclusion in a contractor’s list of patients

16. In Schedule 2 (other required terms), in paragraph 17 (application for inclusion in a list of patients), for sub-paragraph (3), substitute—

“(3) Subject to sub-paragraph (4), an application for inclusion in a contractor’s list of patients may be made by the applicant or a person authorised by the applicant submitting a medical card or an application form, including an electronic application form, to the contractor.”.

(a) This guidance, published in September 2022, is available at <https://www.england.nhs.uk/gp/investment/gp-contract/digital-requirements-guidance/>. Hard copies are available from NHS England, Digital First Primary Care team, Wellington House, 133-155 Waterloo Road, South Bank, London, SE1 8UG.

Quality and Outcomes Framework – amending list of indicators no longer in the Quality and Outcomes Framework

17. In regulation 67C (information relating to indicators no longer in the Quality and Outcomes Framework), in the table, omit—

- (a) “Clinical domain”;
- (b) “MH005” in the left hand column (indicator ID); and
- (c) the entry in the right hand column (indicator description) corresponding to the indicator ID MH005.

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

The GMS Contracts Regulations are amended by regulation 2 and schedule 1, and the PMS Agreements Regulations are amended by regulation 3 and schedule 2.

The GMS Contracts Regulations and the PMS Agreements Regulations are both amended to permit the contractor to provide services remotely, outside of practice premises, if certain criteria are met, such as the use of appropriate digital or telecommunications methods. Premises from which remote services are provided will not need to be specified in the contract, meaning that they are not “practice premises”. Certain provisions have been amended to ensure the correct application of the definition of “practice premises”, now that remote services can be provided outside of practice premises, assisted by the new definitions of “remote service” and “remote consultation”.

The GMS Contracts Regulations and the PMS Agreements Regulations are both amended in respect of the disclosure of pay data where annual NHS earnings exceed a certain threshold to extend the requirement to individuals employed or engaged by a contractor or sub-contractor, including company directors and those engaged through agencies. Two corrections are made to regulation 27A of the GMS Contracts Regulations and to regulations 21A and 21B of the PMS Agreements Regulations to amend the point in time from which reasonable endeavours to amend existing sub-contractors can properly apply, and to amend a cross-reference.

The GMS Contracts Regulations and the PMS Agreements Regulations are both amended to insert new definition for “directly bookable appointment”. They are also both amended to replace the current requirement that at least 25% of a contractor’s daily appointments during core hours be available for online booking with a requirement that all of its directly bookable appointments be available for booking online, by telephone or in person.

The GMS Contracts Regulations and the PMS Agreements Regulations are both amended to update how applications to be on a contractor’s list of patients may be made, to include electronic applications.

The GMS Contracts Regulations and the PMS Agreements Regulations are both amended to remove the line “clinical domain” from the table setting out indicators no longer in the Quality and Outcomes Framework. This is because the domains listed now include indicators from the public health domain as well. This table is also amended by removing an indicator because it is being reinstated to the Quality and Outcomes Framework.

The PMS Agreements Regulations are also amended to allow electronic prescription forms to be used in relation to certain drugs.

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. An explanatory memorandum has been published alongside this instrument at www.legislation.gov.uk.