

2004 No. 445

HEALTH AND PERSONAL SOCIAL SERVICES

**The General Medical Services (Transitional Measure
Relating to Non-Clinical Partners)
Order (Northern Ireland) 2004**

Made	18 October 2004
Coming into operation	15 November 2004

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Article 11 of the Primary Medical Services (Northern Ireland) Order 2004^(a), and all other powers enabling it in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the General Medical Services (Transitional Measure Relating to Non-Clinical Partners) Order (Northern Ireland) 2004 and shall come into operation on 15 November 2004.

Interpretation

2. In this Order –

“Board” means a Health and Social Services Board;

“default contract” means a contract under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004^(b);

“general medical services contract” has the meaning given by Article 57 of the 1972 Order^(c);

“health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002^(d);

“HSS employee” has the meaning given by Article 15C of the 1972 Order^(e);

“non-clinical partner” means a partner in a partnership who is neither a registered medical practitioner nor a health care professional;

“registered medical practitioner” means a fully registered person within the meaning of the Medical Act^(f) who holds a licence to practise under that Act;

“relevant non-clinical partner” shall be construed in accordance with Article 3; and

^(a) S.I. 2004/311 (N.I. 2)

^(b) S.R. 2004 No. 141

^(c) Article 57 was inserted by S.I. 2004/311 (N.I. 2), Article 4

^(d) 2002 c.17

^(e) Article 15C was inserted by S.I. 1997/1177 (N.I. 7), Article 21 and amended by S.I. 2004/311 (N.I. 2), Article 6

^(f) 1983 c. 54

“sole practitioner” means a registered medical practitioner who prior to 1st April 2004 provided general medical services under Article 56 of the 1972 Order^(a).

Relevant non-clinical partners

3. Where –

- (a) a Board enters or has entered into a general medical services contract with a registered medical practitioner as one of two or more individuals practising in a partnership;
- (b) on 31st March 2004, that registered medical practitioner was carrying on a business, in the course of which he provided services under Article 56 of the 1972 Order –
 - (i) in partnership with an individual who was, or with two or more individuals one of whom was, a non-clinical partner,
 - (ii) in partnership with one or more other registered medical practitioners or other individuals, and that partnership employed a person who is or will become a non-clinical partner in the partnership that enters or has entered into that general medical services contract, or
 - (iii) as a sole practitioner, and he employed a person who is or will become a non-clinical partner in the partnership that enters or has entered into that general medical services contract; and
- (c) on the date on which the Board enters or entered into that general medical services contract –
 - (i) the non-clinical partner mentioned in paragraph (b)(i), or
 - (ii) the person mentioned in paragraph (b)(ii) or (b)(iii),is or was a partner in the partnership that enters or has entered into that general medical services contract,

that partner in the partnership, as mentioned in paragraph (c), is, for the purposes of Articles 4 and 5, a “relevant non-clinical partner”.

Relevant non-clinical partners in partnerships entering into general medical services contracts following default contracts after this Order comes into operation

4. A relevant non-clinical partner who is a partner in a partnership that enters into a general medical services contract –

- (a) after this Order comes into operation; but
- (b) which takes effect for payment purposes on 1st April 2004 (which will be the case for general medical services contracts which follow default contracts),

is hereby deemed to be an HSS employee for the purposes of Article 57B(2)(b)(i) of the 1972 Order^(b) at the time at which the partnership enters into that general medical services contract and up until and including the time (if different) at which the general medical services contract takes effect otherwise than for payment purposes.

^(a) Article 56 was amended by S.I. 1991/194 (NI) and S.I. 1997/1177 (N.I. 7) and from 1 April 2004 is substituted by S.I. 2004/311 (N.I. 12), Article 3.

^(b) Article 57B was inserted by Article 4 of the Primary Medical Services (Northern Ireland) Order 2004.

Relevant non-clinical partners who, before this Order came into operation, were partners in partnerships that entered into general medical services contracts which took effect for payment purposes on 1st April 2004

5. – (1) Where –

- (a) before this Order came into operation, a relevant non-clinical partner was a partner in a partnership that entered into a general medical services contract that took effect for payment purposes on 1st April 2004; and
- (b) apart from the relevant non-clinical partner, every partner in that partnership was an individual falling within Article 57B(2)(a) or (b) of the 1972 Order at the time at which the partnership entered into the general medical services contract,

paragraph (2) applies.

(2) In the circumstances set out in paragraph (1), from the date this order comes into operation –

- (a) the general medical services contract referred to in that paragraph shall be treated as if it were a contract entered into by a partnership comprising only individuals falling within Article 57B(2)(a) or (b) of the 1972 Order; and
- (b) the relevant non-clinical partner referred to in that paragraph shall, if on the date this Order comes into operation he is still a partner in a partnership that has entered into a general medical services contract, be treated from that date as if he were an individual falling within Article 57B(2)(b)(iv) of the 1972 Order, but he shall cease to be so treated if he does not provide services of a kind mentioned in Article 15C(1)(b)(iii) of the 1972 Order for a continuous period of six months after that date.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 18 October 2004.

(L.S.)

Dr. J. F. Livingstone
Senior Officer of the Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the Order)

Health and Social Services Boards have powers to enter into general medical services contracts with partnerships, provided the composition of the partnership satisfies the requirements of Article 57B of the Health and Personal Social Services (Northern Ireland) Order 1972. This Order makes provision for the circumstances in which certain non-clinical individuals who were working for general practitioner practices before 1st April 2004 (the earliest date on which general medical services contracts may take effect) but who do not otherwise satisfy the requirements of Article 57B may nevertheless be part of partnerships that enter or have entered into general medical services contracts.