

# Healthcare and Associated professions(Indemnity Arrangements) Order 2014

## SCHEDULE 2 Article 2(2)

### Amendments to and revocations of other subordinate legislation

#### Amendment of the National Health Service (General Medical Services Contracts) Regulations 2004

1. In Schedule 6 (other contractual terms) to the National Health Service (General Medical Services Contracts) Regulations 2004(a)—

(a) in paragraph 122(1), for “hold adequate insurance against liability arising from negligent performance of clinical services under the contract”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;

(b) in paragraph 122(2), for “holds adequate insurance against liability arising from negligent performance of such services”, substitute “has in force in relation to it an indemnity arrangement which provides appropriate cover”;

(c) in paragraph 122(3)(a), for ““insurance” means”, substitute ““indemnity arrangement” means”;

(d) in paragraph 122(3), after paragraph (a) (but before the following “and”) insert—

“(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;

(e) in paragraph 122(3)(b), for “holding insurance if it is held by”, substitute “having in force in relation to it an indemnity arrangement if there is an indemnity arrangement in force in relation to”; and

(f) in paragraph 123, for “the insurance” substitute “an indemnity arrangement”.

#### Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2004

2. In Schedule 5 (other contractual terms) to the National Health Service (Personal Medical Services Agreements) Regulations 2004(a)—

(a) in paragraph 113(1), for “hold adequate insurance against liability arising from negligent performance of clinical services under the agreement”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;

(b) in paragraph 113(2), for “holds adequate insurance arising from negligent performance of such services”, substitute “has in force in relation to it an indemnity arrangement which provides appropriate cover”;

(c) in paragraph 113(3)(a), for ““insurance” means”, substitute ““indemnity arrangement” means”;

(d) in paragraph 113(3)(a), after paragraph (a) (but before the following “and”) insert—

“(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;

(e) in paragraph 113(3)(b), for “holding insurance if it is held by”, substitute “having in force in relation to it an indemnity arrangement if there is an indemnity arrangement in force in relation to”; and

(f) in paragraph 114(1) for “the insurance”, substitute “an indemnity arrangement”

(g) in paragraph 114(2) for “insurance”, substitute “indemnity arrangement”.

# PART 1

## Amendments to the Medical Act 1983

1.—(1) For section 44C(a) of the Medical Act 1983(b) (indemnity arrangements) substitute—  
“**44C Indemnity arrangements**

(1) A person who holds a licence to practise as a medical practitioner, and practises as such, must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this section, an “indemnity arrangement” may comprise—

(a) a policy of insurance;

(b) an arrangement for the purposes of indemnifying a person;

(c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a medical practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The General Council may make regulations in connection with the information to be provided to the Registrar—

(a) by or in respect of a person seeking a licence to practise for the purpose of determining whether, if he is granted such a licence, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover; and

(b) by or in respect of a person who holds a licence to practise for the purpose of determining whether there is in force in relation to him an indemnity arrangement which provides appropriate cover.

(5) Regulations made under subsection (4)(b) may require the information mentioned there to be provided—

(a) at the request of the Registrar; or

(b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual practitioners or practitioners of a particular description.

(6) The General Council may also make regulations requiring a person who holds a licence to practise to inform the Registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.

(7) The General Council may also make regulations requiring a person who holds a licence to practise to inform the Registrar if there is in force in relation to him appropriate cover provided under an indemnity arrangement by an employer.

(8) A licensing authority may refuse to grant a licence to practise to any person who fails to comply, or in respect of whom there is a failure to comply, with regulations made under subsection (4)(a).

(9) Where a person who holds a licence to practise is in breach of subsection (1) or there is a failure to comply with regulations made under subsection (4)(b) in relation to him—

(a) Section 44C was inserted by S.I. 2006/1914.

(b) 1983 c. 54.

(a) a licensing authority may withdraw that person’s licence to practise; or

(b) the breach or failure may be treated as misconduct for the purposes of section 35C(2)(a)(a), and the Registrar may accordingly refer the matter to the Investigation Committee under section 35C(4).

(10) Regulations made under subsection (4), (6) or (7) shall not have effect until approved by the Privy Council.

(11) This section does not apply to a person who holds a licence to practise as a result of registration under Schedule 2A(b) (visiting medical practitioners from relevant European States).”

(2) In section 29F(1A)(c) (appeals), in paragraph (a), for “section 44C(7)” substitute “section 44C(8)” and in paragraph (b), for “section 44C(8)(a)” substitute “section 44C(9)(a)”.