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## SCHEDULES

### SCHEDULE 1

Section 13(9).

#### PREFERENTIAL TREATMENT ON TRANSFERRING TO MEDICAL LISTS

**Modifications etc. (not altering text)**

**C1** Sch. 1 modified as to exercise of functions of a Health Authority (1.4.2001) by [S.I. 2001/747](#), [reg. 6\(3\)\(c\)](#)

#### *Cases where preference is given*

- 1 (1) This Schedule applies if the Secretary of State determines under section 13 that a medical practitioner is to be given preferential treatment on making an application for his name to be included in an authority's medical list after ceasing to perform personal medical services in connection with the provision of such services under a pilot scheme and the conditions mentioned in sub-paragraph (2) are satisfied.
- (2) The conditions are that—
- (a) the practitioner has made an application in the prescribed manner to the authority concerned for his name to be included in their medical list;
  - (b) his name has not been included in the list since he ceased to perform the services under the scheme; and
  - (c) he has not, since then, been nominated or approved in accordance with regulations under section 29B of the 1977 Act or (as the case may be) section 19B of the 1978 Act for appointment to fill a vacancy which relates (whether wholly or in part) to the authority's area.

**Modifications etc. (not altering text)**

**C2** Sch. 1 para. 1(2)(c) modified (1.4.1998) (*temp.*) by [S.I. 1998/631](#), [art. 4](#)

#### *The preferential treatment*

- 2 (1) The authority must include the applicant's name in their medical list unless—
- (a) the applicant is not eligible for inclusion in the list by virtue of a direction under paragraph 4;
  - (b) he is otherwise not eligible for inclusion in the list; or
  - (c) the question of whether to give a direction under paragraph 4 is not resolved.
- (2) Where the authority are under a duty under sub-paragraph (1) in relation to the applicant, neither section 29A(2)(b) of the 1977 Act nor (as the case may be) section 19A(2)(b) of the 1978 Act (requirement as to nomination or approval) applies in relation to him.

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- (3) Regulations may make provision as to conditions to be attached to the applicant's entry in the list in such cases.
- (4) For the purposes of this paragraph, a person is not eligible for inclusion in a medical list if he is not eligible for inclusion in the list for the purposes of section 29A(2)(a) of the 1977 Act or (as the case may be) section 19A(2)(a) of the 1978 Act.

**Modifications etc. (not altering text)**

**C3** Sch. 1 para. 2(2)(4) modified (1.4.1998) (*temp.*) by **S.I. 1998/631, art. 4**

*Representations against preferential treatment*

- 3 (1) The Tribunal must inquire into any representations by the authority that the inclusion of the applicant's name in their medical list would be prejudicial to the efficiency of the general medical services provided in their area.
- (2) The Tribunal may inquire into any similar representations by any other person.
- (3) Where any representations of a kind mentioned in sub-paragraph (1) or (2) are made to the Tribunal and the applicant withdraws his application without the consent of the Secretary of State, the Tribunal may proceed to inquire into any of the representations, and exercise the powers in relation to disqualification conferred on them by this Schedule, as if the application had not been withdrawn.
- (4) The representations must be made in the prescribed manner and before the end of such period as may be prescribed.
- (5) Regulations may make provision for the publication of information about—
  - (a) applications to which this Schedule relates; and
  - (b) the right to make representations about such applications.

*Power of Tribunal to give directions*

- 4 (1) If the Tribunal consider that the inclusion of the applicant's name in the medical list would be prejudicial to the efficiency of the general medical services provided in the authority's area, they—
  - (a) must direct that the applicant's name is not to be included in the list; and
  - (b) may, if they think fit—
    - (i) direct that his name is not to be included in any other medical list (whether kept under the 1977 Act or the 1978 Act); or
    - (ii) direct that his name is not to be included in any other specified medical list or lists kept under the appropriate Act.
- (2) In sub-paragraph (1) "appropriate Act" means—
  - (a) in a case where the medical list to which sub-paragraph (1)(a) applies is kept under the 1977 Act, that Act; and
  - (b) in a case where the medical list to which sub-paragraph (1)(a) applies is kept under the 1978 Act, that Act.

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- (3) If the Tribunal give a direction under sub-paragraph (1)(b)(i) they may also, if they think fit, declare that the applicant is not fit to be engaged in any capacity in the provision of general medical services (whether under the 1977 Act or the 1978 Act).
- (4) A direction by the Tribunal under this paragraph is binding on the authority or authorities concerned as from the time when the direction is given.

#### *Termination of directions*

- 5 (1) A person's name may not be included (whether by virtue of paragraph 2 or otherwise) in any medical list to which a direction under paragraph 4 relates before the Tribunal give a direction to the contrary under this paragraph.
- (2) For the purpose of deciding whether or not to give a direction under this paragraph, the Tribunal may hold an inquiry.

#### *Directions in Northern Ireland*

- 6 A person's name may not be included in any medical list (whether by virtue of paragraph 2 or otherwise) if he is prevented under provisions in Northern Ireland which correspond to this Schedule from being included in all corresponding lists there.

#### *Regulations*

- 7 (1) Regulations must provide—
  - (a) for inquiries under this Schedule to be held in accordance with such procedure as may be prescribed by or determined under the regulations;
  - (b) for conferring on the Tribunal such powers as the Secretary of State considers necessary;
  - (c) for section 250 of the <sup>M1</sup>Local Government Act 1972 (local inquiries) to apply, in relation to England and Wales, with such modifications (if any) as may be prescribed; and
  - (d) for the publication of decisions of the Tribunal under the regulations and of the imposition and removal of any disqualifications imposed under paragraph 6.
- (2) The regulations must, in particular—
  - (a) provide for any person who is the subject of an inquiry to have an opportunity—
    - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal; and
    - (ii) of being heard by the Tribunal and of calling witnesses and producing other evidence on his behalf; and
  - (b) provide for the hearing to be in public if the person who is the subject of the inquiry so requests.

#### **Marginal Citations**

**M1** 1972 c. 70.

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### Interpretation

- 8 For the purposes of this Schedule the question of whether to give a direction under paragraph 4 is resolved if—
- (a) the period for making representations under paragraph 3 has ended without the Tribunal receiving any such representations;
  - (b) such representations have been received but the Tribunal have decided—
    - (i) not to inquire into them; or
    - (ii) not to give a direction under paragraph 4; or
  - (c) a direction has been given by the Tribunal.
- 9 In this Schedule “the Tribunal” means—
- (a) in relation to an applicant for inclusion in a Health Authority’s medical list, the [<sup>F1</sup>Family Health Services Appeal Authority constituted under section 49S] of the 1977 Act; or
  - (b) in relation to an applicant for inclusion in a Health Board’s medical list, the Tribunal constituted under section 29 of the 1978 Act.

#### Textual Amendments

- F1** Words in [Sch. 1 para. 9\(a\)](#) substituted (1.10.2001 for E. for specified purposes and 1.12.2001 for E. subject to art. 4(2) of the commencing S.I. and 26.8.2002 for W.) by [2001 c. 15, s. 27\(5\)\(b\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2001/3294, art. 4, Sch.](#); [S.I. 2002/1919 art. 3\(1\), Sch. Pt. II](#) (subject to *temp.* amendments in [S.I. 2002/1919, Sch. Pt. III](#))

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