

1990 No. 1753

**NATIONAL HEALTH SERVICE, ENGLAND AND  
WALES**

**The National Health Service (Fund-holding Practices)  
(Applications and Recognition) Regulations 1990**

*Made* - - - - - *22nd August 1990*

*Laid before Parliament* *24th August 1990*

*Coming into force* *17th September 1990*

The Secretary of State for Health, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of powers conferred by sections 126(4) and (5) and 128(1) of the National Health Service Act 1977(a) and section 14(2) and (6) of the National Health Service and Community Care Act 1990(b) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Fund-holding Practices) (Applications and Recognition) Regulations 1990 and shall come into force on 17th September 1990.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service and Community Care Act 1990;

“allotted sum” has the same meaning as in section 15 of the Act;

“application” means an application for the purposes of section 14 of the Act for recognition as a fund-holding practice;

“practice” means a medical practitioner who, or a group of medical practitioners acting jointly and whether or not practising in partnership which, makes or proposes to make an application and “members of the practice” shall be construed accordingly;

“relevant Family Health Services Authority” has the same meaning as in section 15(1B) of the National Health Service Act 1977(c);

“relevant Regional Health Authority” has the same meaning as in section 14(3) of the Act.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(4) For the purposes of these Regulations, an application is made when it is received by the person to whom it is required to be made in accordance with regulation 3.

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(a) 1977 c.49; section 126(4) was amended by, and section 126(5) was inserted by, section 65(2) of the National Health Service and Community Care Act 1990 (“the 1990 Act”); section 128(1) was amended by section 26(2) of the 1990 Act. Section 128(1) is cited for the definitions of “prescribed” and “regulations”.

(b) 1990 c.19.

(c) Section 15 was amended by the Health Services Act 1980 (c.53), Schedule 1, paragraphs 35 and 90, and by the Health and Social Security Act 1984 (c.48), section 5(2) and Schedule 8; subsection (1B) was added by section 12(1) of the 1990 Act.

(5) In these Regulations any reference to the sending of a document is a reference to the sending of a document in a pre-paid letter addressed, in the case of a medical practitioner, to him at the address given in the medical list in which he is included and, in the case of the Secretary of State or a Regional Health Authority, to them at their principal office.

#### **Application of Regulations in Wales**

2.—(1) Subject to paragraph (2) and except in any case where regulation 3(4) applies, in the application of these Regulations to any medical practitioner whose relevant Family Health Services Authority has a locality in Wales, for any reference to the relevant Regional Health Authority there shall be substituted a reference to the Secretary of State.

(2) Regulations 7(c) and 8 do not apply in relation to an application which, by virtue of the preceding paragraph or regulation 3(4), has been made to the Secretary of State.

#### **Application for recognition as a fund-holding practice**

3.—(1) An application shall be made in writing on a form approved by the Secretary of State and, subject to paragraphs (4) and (5), shall be sent to the relevant Regional Health Authority.

(2) The practice shall provide, in connection with the application, such information and documents as the relevant Regional Health Authority may reasonably require for the purposes of determining the application.

(3) The application shall be signed by each member of the practice making it.

(4) Where a member of a practice is on both the medical list of a Family Health Services Authority whose locality is in England and the medical list of a Family Health Services Authority whose locality is in Wales or the members of the practice include a member who is only on the medical list of a Family Health Services Authority whose locality is in England and a member who is only on the medical list of a Family Health Services Authority whose locality is in Wales, then the application shall be made to—

- (a) the relevant Regional Health Authority if more patients on the lists of the members of the practice reside in England than in Wales; and
- (b) the Secretary of State in any other case.

(5) Where a member of a practice is on both the medical list of a Family Health Services Authority whose locality is in England and the medical list of a Health Board or the members of the practice include a member who is only on the medical list of a Family Health Services Authority whose locality is in England and a member who is only on the medical list of a Health Board, then the application shall be made to the relevant Regional Health Authority if more patients on the lists of the members of the practice reside in England than in Scotland<sup>(a)</sup>.

#### **Time of application**

4. An application for recognition which is to take effect from 1st April 1991 shall be made by 1st November 1990 and an application which is to take effect from 1st April in any subsequent year shall be made by 1st April in the preceding year.

#### **Grant of recognition as a fund-holding practice**

5.—(1) A relevant Regional Health Authority shall grant recognition as a fund-holding practice—

- (a) if it is satisfied that the conditions specified in regulation 6 are fulfilled; and
- (b) in any case where the practice does not include both—
  - (i) a member who practises in a partnership where the total number of patients on the lists of patients of the medical practitioners in the partnership exceeds 9,000, and
  - (ii) a member who practises in another such partnership.

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<sup>(a)</sup> See S.I. 1990/1754 for applications by practices with more patients residing in Scotland than in England.

(2) Recognition as a fund-holding practice shall be granted so as to take effect from 1st April following the grant of recognition.

#### **Conditions for obtaining recognition**

6. The conditions referred to in regulation 5(1)(a) are that—
- (a) on the date on which the application is made there will be a total of at least 9,000 patients on the lists of patients of members of the practice or it is likely that there will be a total of at least 9,000 patients on those lists on the date on which any recognition is to take effect;
  - (b) where some or all of the members of the practice are practising in partnership, the application is made (whether or not with other persons) by all the members practising in partnership;
  - (c) the practice is capable of managing an allotted sum effectively and efficiently and in particular, that it possesses, or has access to, equipment and expertise such as computers and ancillary equipment and expertise necessary to enable it to manage an allotted sum effectively and efficiently;
  - (d) where the members of the practice are not partners in a single partnership, the members of the practice have entered into an agreement approved by the relevant Regional Health Authority which provides that any act of a member of the practice with respect to the allotted sum binds the other members of the practice.

#### **Determination of application**

7. The relevant Regional Health Authority shall determine an application and shall—
- (a) send to each member of the practice notice of its decision;
  - (b) include in the notice a statement of the reasons for its decision; and
  - (c) where recognition as a fund-holding practice has been refused, inform each member of the practice of the right to appeal to the Secretary of State against the refusal.

#### **Appeals to the Secretary of State**

8.—(1) A practice may appeal to the Secretary of State against a decision of a relevant Regional Health Authority to refuse to grant the practice recognition as a fund-holding practice.

(2) A notice of appeal shall be signed by all the members of the practice and shall be sent to the Secretary of State within the period of one month beginning on the date on which notice of the relevant Regional Health Authority's decision was sent to the members of the practice and shall contain a concise statement of the grounds of appeal on which the practice relies.

(3) The Secretary of State shall send a copy of the notice of appeal to the relevant Regional Health Authority.

(4) The Secretary of State may, if he is of the opinion that the appeal is of such a nature that it can properly be determined without an oral hearing, determine the appeal without an oral hearing.

(5) If the Secretary of State is of the opinion that an oral hearing is required he shall appoint one or more persons to hear the appeal and shall send to each member of the practice and the relevant Regional Health Authority a notice of the date of the hearing and the time and place at which it is to be held.

(6) All members of the practice may attend the hearing and the practice may be represented by a member of the practice appointed for the purpose by the practice and the relevant Regional Health Authority may be represented by a member or officer of the Authority appointed for the purpose by the Authority.

(7) The person or persons hearing the appeal shall report to the Secretary of State in writing and the report shall contain such findings of fact as the person or persons hearing the appeal consider necessary for the purposes of enabling the Secretary of State to determine the appeal and their conclusions.

- (8) The Secretary of State, on receipt of the report, shall—
- (a) take the report into consideration;
  - (b) determine the appeal in accordance with regulations 5 and 6 as though the reference in regulation 5 to the relevant Regional Health Authority were a reference to the Secretary of State;
  - (c) send to each member of the practice making the appeal and to the relevant Regional Health Authority a notice of his decision; and
  - (d) include in the notice a statement of the reasons for his decision.

Signed by authority of the Secretary of State for Health.

*Stephen Dorrell*  
Parliamentary Under Secretary of State,  
Department of Health

22nd August 1990

*David Hunt*  
Secretary of State for Wales

22nd August 1990

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations contain provisions about applications by medical practitioners providing general medical services under the health service for recognition as fund-holding practices and the grant of recognition by Regional Health Authorities or, on appeal, by the Secretary of State. The Regulations include provision about—

- (1) the application of the Regulations in Wales (regulation 2),
- (2) applications for recognition as a fund-holding practice (regulation 3),
- (3) the timing of the application (regulation 4),
- (4) the grant of recognition as a fund-holding practice (regulation 5),
- (5) the conditions for obtaining recognition (regulation 6),
- (6) determination of the application (regulation 7),
- (7) appeals to the Secretary of State (regulation 8).

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