
STATUTORY INSTRUMENTS

1994 No. 633

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (General Medical
Services) Amendment Regulations 1994**

<i>Made</i>	- - - -	<i>9th March 1994</i>
<i>Laid before Parliament</i>		<i>9th March 1994</i>
<i>Coming into force</i>	- -	<i>1st April 1994</i>

The Secretary of State for Health, in exercise of powers conferred on her by sections 15(1), 29, 30(1), 33(2A) and 126(4) of the National Health Service Act 1977⁽¹⁾, and of all other powers enabling her in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services) Amendment Regulations 1994 and shall come into force on 1st April 1994.

(2) In these Regulations “the principal Regulations” means the National Health service (General Medical Services) Regulations 1992⁽²⁾.

Amendment of regulation 5 of the principal Regulations

2. In regulation 5(2) of the principal Regulations (application to fill a vacancy), after “regulation 12” there is inserted “, or any further notice given under regulation 12A,”.

(1) 1977 c. 49. See section 128(1) (amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and
(2)) for the definitions of “prescribed” and “regulation”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48), section 5(2) and by section 12(1) of the 1990 Act. Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and schedule 5, paragraph 16(a); and by S.I.1985/39, article 7(3). Section 30(1) was amended by the 1980 Act, section 1, Schedule 1, paragraph 43(a) and Schedule 7; by S.I.1981/432, article 3(1) (a) and by S.I.1985/39, article 7(4). Section 33(2A) was inserted by the 1990 Act, section 23(2). Section 126(4) was amended by the 1990 Act, section 65(2).

Amendment of regulation 12 of the principal Regulations

3. In regulation 12(3)(b) of the principal Regulations (which is part of the definition of “vacancy” for the purposes of regulations 12 and 13)—

- (a) for “regulation 13” there is substituted “regulations 12A and 13”; and
- (b) for “regulation 5(6)” there is substituted “regulation 5(9) (a)”.

Insertion of regulation 12A into the principal Regulations

4. After regulation 12A of the principal Regulations (advertisement of vacancies) there is inserted the following regulation—

“Re-advertisement of vacancies

12A.—(1) Where in response to a notice of a vacancy the FHSA receives fewer than 20 applications in respect of the vacancy it may give further notice of the vacancy in accordance with paragraph (3).

(2) Paragraph (1) shall also apply in relation to the combined response to the first notice and to one or more further notices as it applies in relation to the response to the first notice, but no more than 3 further notices may be given in respect of any vacancy.

(3) A further notice of a vacancy shall—

- (a) be in the same terms as the notice given under regulation 12 in respect of the vacancy, except for the closing date and the inclusion in the further notice of a statement that all applications received in response to the first notice and any previous further notice in respect of the vacancy will automatically be considered for the vacancy;
- (b) be published in the manner mentioned in paragraph (2)(c) of regulation 12; and
- (c) be given within the period of 28 days beginning with the date following the closing date included in the immediately preceding notice or further notice in respect of the vacancy.

(4) In this regulation and in paragraph (2A) of regulation 13, “closing date” means the date included in a notice (or a further notice) by which any application to fill the vacancy must be sent or delivered to the FHSA.”.

Amendment of regulation 13 of the principal Regulations

5.—(1) Regulation 13 of the principal Regulations (selection of applicants by FHSA) is amended as follows.

(2) After paragraph (2) there are inserted the following paragraphs—

“(2A) The FHSA shall not begin making its selection for the purposes of paragraph (2) until—

- (a) after it has resolved to give no more notices or, as the case may be, it has given 3 further notices in respect of the vacancy; and
- (b) the closing date included in the last notice given before the FHSA’s resolution to give no more notices (or, as the case may be, the last of the 3 further notices) has passed.

(2B) When making its selection, the FHSA shall take no account of the order in which the applications were received, or of the fact that any application was received in response to one notice rather than another.”.

Amendment of regulation 19 of the principal Regulations

6. In regulation 19 of the principal Regulations (doctors' lists), after paragraph (6) there are inserted the following paragraphs—

“(6A) Where a doctor has requested the FHSA to remove a person from his list in accordance with paragraph 9 of Schedule 2, the removal shall take effect from the date mentioned in that paragraph.

(6B) Where a doctor has requested the FHSA to remove a person from his list with immediate effect in accordance with paragraph 9A of Schedule 2—

- (a) the removal shall take effect at the time mentioned in sub-paragraph (3) of that paragraph; and
- (b) on receipt of the notification mentioned in sub-paragraph (1) of that paragraph, the FHSA shall—
 - (i) in writing, acknowledge it and also give notice of the removal to the person concerned, and
 - (ii) take all reasonable steps to assign the person to another doctor before the end of the next working day, or as soon as possible thereafter, and regulation 21 shall apply to such an assignment as if the person had applied for an assignment in accordance with that regulation but as if the word “still” were omitted from paragraph (4).”.

Amendment of regulation 21 of the principal Regulations

7. In regulation 21(11) of the principal Regulations (assignment of persons to doctors), after “list” there is inserted “and, where the application relates only to a specified person who has previously been removed from the list of the doctor, the circumstances of that removal”.

Amendment of Schedule 2 to the principal Regulations

8.—(1) Schedule 2 to the principal Regulations (terms of service for doctors) is amended as follows.

(2) In paragraph 4 (a doctor's patients), for sub-paragraph (4) there is substituted the following sub-paragraph—

- “(4) Where a doctor—
- (a) refuses to accept for inclusion in his list a person who lives in his practice area and who is not included in the list of another doctor practising in that area; or
 - (b) refuses to accept as a temporary resident a person to whom regulation 26 applies; or
 - (c) has requested the removal with immediate effect of a person from his list in accordance with paragraph 9A,

he shall on request give that person any immediately necessary treatment until the expiry of the period of 14 days beginning with the date when that person was refused acceptance (or, as the case may be, with the date, when he requested the immediate removal of that person from his list), or until that person has been accepted by or assigned to another doctor, whichever occurs first.”.

(3) In paragraph 9 (termination of responsibility for patients), at the beginning of sub-paragraph (1) there is inserted “Subject to paragraph 9A,”.

(4) After paragraph 9 there is inserted the following paragraph—

“9A.—(1) Where—

- (a) a person on a doctors list has committed an act of violence against the doctor or has behaved in such a way that the doctor has feared for his safety; and
- (b) the doctor has reported the incident to the police,

the doctor may notify the FHSA that he wishes to have that person removed from his list with immediate effect.

(2) Notification under sub-paragraph (1) may be given by any means including telephone or fax, but if not given in writing shall subsequently be confirmed in writing within 7 days (and for this purpose a faxed notification is not a written one).

(3) The time at which the doctor notifies the FHSA shall be the time at which he makes the telephone call or sends or delivers the notification to the FHSA.

(4) Where pursuant to this paragraph a doctor has notified the FHSA that he wishes to have a person’s name removed from his list with immediate effect, he shall take all reasonable steps to inform the person concerned.”.

(5) In paragraph 20 (responsibility for deputies), in sub-paragraph (2), for the words from “Where” to “responsible for” there is substituted “Where a doctor whose name is included in the medical list of any FHSA is acting as deputy to another doctor whose name is included in the medical list of an FHSA, the deputy alone is responsible for”.

9th March 1994

Virginia Bottomley
Secretary of State for Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services) Regulations 1992 (“the principal Regulations”), which regulate the terms on which general medical services are provided under the National Health Service Act 1977.

Regulation 4 of these Regulations inserts a new regulation 12A (re-advertisement of vacancies) into the principal Regulations. This enables Family Health Services Authorities (FHSAs) to give further notice of a vacancy for a doctor to provide general medical services where fewer than 20 applications have been received in connection with the vacancy. The number of further notices which may be given in respect of any vacancy is limited to 3. Further notices are required to be in the same terms as the original notice except for the closing date and the inclusion of a statement that all applications received in response to the first notice or any further notice will automatically be considered for the vacancy. A further notice must be given within 28 days of the closing date included in the immediately preceding notice and be published in such manner as appears to the FHSA to be likely to bring the vacancy to the attention of doctors within and outside its locality.

Regulation 5 of these Regulations inserts new paragraphs (2A) and (2B) into regulation 13 of the principal Regulations (selection of applicants). Paragraph (2A) prohibits FHSAs from beginning their selection until after they have resolved to give no more notices or, as the case may be, 3 further notices have been given, and the closing date of the last notice has passed. Paragraph (2B) prohibits FHSAs, when making their selection, from taking into account the order in which the applications were received or the fact that an application was received in response to one notice rather than another.

Regulations 2 and 3 of these Regulations make consequential amendments, and regulation 3(b) also corrects an error in the principal Regulations.

Regulations 6 to 8 of these Regulations also make provision for FHSAs to remove a person from a doctor’s list of patients with immediate effect where requested to do so by a doctor as a result of an act of actual or threatened violence. The doctor is to remain responsible for immediately necessary treatment for a period of 14 days or until the person is transferred to the list of another doctor, if that happens sooner.

Regulation 8 also provides that where a doctor engages as a deputy another doctor who is himself on the medical list of any FHSA, that deputy alone is responsible under the terms of service contained in Schedule 2 to the principal Regulations for his acts and omissions and those of any person employed by him or acting on his behalf.