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STATUTORY INSTRUMENTS

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**1994 No. 634**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (Service Committees  
and Tribunal) 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 the provisions set out in column (1) of the Schedule to this instrument (as amended in particular by the provisions set out in column (2) of the Schedule), and of all other powers enabling her in that behalf, and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(1), hereby makes the following Regulations:—

**Citation, commencement and interpretation**

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

(2) In these Regulations, “the principal Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992(2).

**Amendment of regulation 5 of the principal Regulations**

2.—(1) Regulation 5 of the principal Regulations (making of complaints) is amended as follows.

(2) In paragraph (1), after “notice to the” there is inserted “appropriate”.

(3) After paragraph (1) there is inserted—

“(1A) The appropriate FHSA is—

(a) the one on whose medical, dental, ophthalmic or pharmaceutical list the name of the practitioner was included; or

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(1) 1992 c. 53.

(2) S.I. 1992/664, amended by S.I. 1993/2972.

- (b) where the complaint relates to the acts or omissions of a doctor when acting as deputy to another doctor, the one on whose medical list the name of that other doctor was included,

at the time of the event, treatment or matter which is the subject of the complaint, or, where the practitioner referred to in sub-paragraph (a) or other doctor referred to in sub-paragraph (b) was at that time on more than one such list the FHSA by arrangement with which the Part-II services giving rise to the complaint were provided.”

**Amendment of regulation 6 of the principal Regulations**

3.—(1) Regulation 6 of the principal Regulations (investigation of complaints) is amended as follows.

(2) In paragraph (3)—

(a) at the beginning there is inserted “Subject to paragraph 2(5) of Schedule 4”;

(b) in sub-paragraph (a)—

(i) “also” is omitted, and

(ii) for “the medical list” there is substituted “a medical list”;

(c) in sub-paragraph (b)—

(i) for “the medical list” where it first occurs there is substituted “a medical list”, and

(ii) “also” is omitted;

(d) for “both doctors” there is substituted “the deputy alone”; and

(e) after “accordingly” there is inserted “except where there are reasonable grounds for believing that the doctor for whom the deputy was acting has failed to comply with his obligations under the terms of service in relation to ensuring the provision of services to his patients, in which case the complaint shall be taken as a complaint against both doctors and investigated accordingly.”

(3) In paragraph (6), for “the FHSA” there is substituted “an FHSA”.

**Amendment of regulation 10 of the principal Regulations**

4. In regulation 10 of the principal Regulations (appeal to the Secretary of State), for paragraph (3A) there is substituted—

“(3A) Subject to paragraph (6), on an appeal which paragraph (1)(aa) applies, the Secretary of State shall determine whether there are reasonable grounds for believing that the practitioner has failed to comply with any of his terms of service; and if he determines that there are such grounds, he shall specify those terms of service in his determination.”

**Amendment of regulation 11 of the principal Regulations**

5. In regulation 11(14A) of the principal Regulations (procedure on appeal), “or as the case may be under paragraph 2(5B) by the appropriate committee itself,” is omitted.

**Amendment to Schedule 4 to the principal Regulations**

6.—(1) Schedule 4 to the principal Regulations (procedure for investigations by appropriate committees) is amended as follows.

(2) In paragraph 2—

(a) in sub-paragraph (1)(a), for “the medical list” there is substituted “a medical list”; and

(b) for sub-paragraphs (4) to (5B) there is substituted—

“(4) A complaint mentioned in regulation 6(3)(a) or (b) (complaints about deputies) shall be brought as soon as practicable before the medical service committee.

(5) If, in the case of such a complaint, the medical service committee considers that the notice of complaint and other documents disclose reasonable grounds for believing that the doctor for whom the deputy was acting has failed to comply with his obligations under the terms of service in relation to ensuring the provision of services for his patients, the doctor shall be a party to the investigation and the provisions of these Regulations shall apply to him accordingly.

(6) In a case to which sub-paragraph (5) applies, the medical service committee shall identify each provision of the doctor’s terms of service with which it considers he may have failed to comply, and notify the FHSA accordingly.”

(3) In paragraph 3, for “2(5B)” in each place where it occurs there is substituted “2(6)”.

(4) In paragraph 4(2), “2(5A)” is omitted.

(5) In paragraph 7—

(a) in sub-paragraph (1) “or 2(5A)” is omitted; and

(b) for sub-paragraph (1A) there is substituted—

“(1A) In a case falling within paragraph 1(6A), the report shall state why the committee considers that there are no reasonable grounds for believing that the practitioner has failed to comply with his terms of service.”

(6) In paragraph 10, after sub-paragraph (c) there is inserted—

“(d) “terms of service” means, in relation to a doctor acting as deputy, the terms of service of the doctor for whom he was acting as deputy.”

Department of Health  
9th March 1994

*Virginia Bottomley*  
One of Her Majesty’s Principal Secretaries of  
State

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

### PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

(1) <i>Provision</i>	(2) <i>Relevant amendments</i>
National Health Service Act 1977(3) section 29(4)	Health Services Act 1980(5) (“the 1980 Act”), sections 1 and 7 and Schedule 1 paragraph 42(b)
	Health and Social Services and Social Security Adjudications Act 1983(6), Schedule 6, paragraph 2
	Family Practitioner Committees (Consequential Modifications) Order 1985(6) (“the 1985 Order”), article 7(3)
section 36(7)	European Communities (Medical, Dental and Nursing Professions) (Linguistic Knowledge) Order 1981(8), article 3(3)
	Health and Social Security Act 1984(9) (“the 1984 Act”), Schedule 3, paragraph 5 the 1985 Order, article 7(10)
	Health and Medicines Act 1988(10), Schedule 2, paragraph 4
	National Health Service and Community Care Act 1990(11) (“the 1990 Act”), section 24
section 39(12)	the 1980 Act, section 1 and Schedule 1, paragraph 52
	the 1984 Act, section 1(4) and Schedule 1, Part I paragraph 1 and Schedule 8, Part I
	the 1985 Order, article 7(12)
section 42(13)	Substituted by the National Health Service (Amendment) Act 1986(14), section 3(1)

(3) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19), section 26(2)(g) and

(4) , for the definitions of “prescribed” and “regulations”.

(5) Extended by section 17 of the Health and Medicines Act 1988 (c. 49).

(6) 1980 c. 53.

(6) 1980 c. 53.

(7) 1983 c. 41.

(8) S.I. 1985/39.

(9) S.I. 1981/432.

(10) 1984 c. 48.

(11) 1988 c. 49.

(12) 1990 c. 19.

(13) 1986 c. 66.

(14) S.I. 1987/2202.

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(1) <i>Provision</i>	(2) <i>Relevant amendments</i>
	Pharmaceutical Qualifications (EEC Recognition) Order 1987 article 4
	the 1990 Act, section 12(3)
section 126(4)	the 1990 Act, section 65(2)

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### EXPLANATORY NOTE

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

These Regulations further amend the National Health Service (Service Committees and Tribunal) Regulations 1992 in connection with complaints against doctors, dentists, opticians or chemists providing services under Part II of the National Health Service Act 1977 that they are in breach of their terms of service.

Regulation 2 amends the 1992 Regulations to make clear that the Family Health Services Authority to which the complaint should be addressed is the one on whose list the doctor (including a doctor for whom a Deputy acted), dentist, optician or chemist was at the time of the matter which is the subject of the complaint.

The remaining provisions of these Regulations amend the 1992 Regulations to provide that where a complaint is made about a deputy doctor who is himself on the list of any Family Health Services Authority, then the complaint is to be treated as being against the deputy alone, and not against the doctor for whom he was acting (unless there are grounds for thinking that he had failed to ensure that a proper service for his patients was available).