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STATUTORY INSTRUMENTS

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**1995 No. 3093**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (General Medical  
Services) Amendment (No. 2) Regulations 1995**

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| <i>Made</i>                   | - - - - | <i>30th November 1995</i> |
| <i>Laid before Parliament</i> |         | <i>30th November 1995</i> |
| <i>Coming into force</i>      |         |                           |
| <i>Regulations 1 to 6</i>     |         | <i>21st December 1995</i> |
| <i>Regulation 7</i>           |         | <i>1st January 1996</i>   |

The Secretary of State for Health, in exercise of powers conferred on him by sections 15(1), 29, 30(1), 49E and 126(4) of the National Health Service Act 1977(1), and of all other powers enabling him 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 (No. 2) Regulations 1995.

(2) Regulations 1 to 6 shall come into force on 21st December 1995 and regulation 7 shall come into force on 1st January 1996.

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

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- (1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48), section 5(2) and by the 1990 Act, section 12(1). 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 49E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 2(1). Section 126(4) was amended by the 1990 Act, section 65(2).
- (2) S.I. 1992/635; relevant amending instruments are S.I. 1992/2412, 1993/2421, 1994/2620 and 1994/3130.

## **Amendment of regulation 2 of the principal Regulations**

2. In regulation 2(1) of the principal Regulations (interpretation), after the definition of “restricted services principal” insert—

““suspended by direction of the Tribunal” means suspended as respects the provision of general medical services to patients by a direction of the Tribunal made pursuant to section 49A(2) or section 49B(1) of the Act<sup>(3)</sup> or to any provisions in force in Scotland or Northern Ireland corresponding to those provisions;”.

## **Amendment of regulation 7 of the principal Regulations**

3. In regulation 7 of the principal Regulations (removal from the medical list) omit “and” at the end of paragraph (3)(a), and at the end of paragraph (3)(b) insert—

“; and

(c) any period during which the doctor was suspended by direction of the Tribunal”.

## **Temporary provision of services**

4.—(1) Regulation 25 of the principal Regulations (temporary provision of services) is amended as follows.

(2) In paragraph (2) after sub-paragraph (b), insert “and where a doctor is suspended by direction of the Tribunal the FHSA shall, after consultation with the Local Medical Committee, make arrangements for the temporary provision of general medical services for the suspended doctor’s patients with one or more doctors on the medical list of the FHSA (one or more of whom may be partners of the suspended doctor) or with one or more doctors appointed for the purpose, or both.”.

(3) In paragraph (4), for “paragraph (10)” substitute “paragraphs 10, (14A) and (14B)”.

(4) In paragraph (14), at the beginning insert “Where paragraph (14A) does not apply,”.

(5) After paragraph (14), insert—

“(14A) In the case of a doctor who has been suspended by direction of the Tribunal—

(a) the FHSA shall temporarily assign each of the suspended doctor’s patients to the list of one of the doctors with whom arrangements for the temporary provision of general medical services are made for the duration of those arrangements; and

(b) to the extent necessary to accommodate any additional patients temporarily assigned under sub-paragraph (a), the limitation contained in regulation 24 on the number of persons who may be on a doctor’s list shall not apply for the duration of those arrangements.

(14B) Where arrangements such as are referred to in paragraph (14A) are in force when a suspension by direction of the Tribunal ceases to have effect—

(a) in the case where the suspended doctor continues to be included in the medical list, the FHSA shall reassign to him all those patients temporarily assigned under paragraph (14A) who are still on the list of the doctor to whom they were so assigned; and

(b) in the case where he ceases to be included in the medical list, the arrangements referred to in paragraph (14A) shall cease to have effect (without prejudice to any new arrangements which may be made under this regulation).”.

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(3) Sections 49A and 49B were inserted by section 2(1) of the National Health Service (Amendment) Act 1995 (c. 31).

## Payments to suspended doctors

5. After regulation 34 of the principal Regulations, insert the following new regulation—

### “Payments to suspended doctors

**34A.**—(1) The FHSA shall make payments to any doctor who is suspended by direction of the Tribunal in accordance with the Secretary of State’s determination in relation to such payments.

(2) The Secretary of State shall make the determination in accordance with paragraph (3) after consultation with the organisations referred to in regulation 34(1), and it shall be published with the Statement referred to in regulation 34(1).

(3) The determination may be amended from time to time by the Secretary of State, after consultation with the organisations referred to in regulation 34(1) and any amendments shall also be published with the statement referred to in regulation 34(1).

(4) Subject to paragraphs (5) and (6), the Secretary of State’s determination shall be such as to secure that, as far as reasonably practicable, the suspended doctor receives all the payments which would have been due to him pursuant to regulation 34 had he provided such general medical services to his patients during the period of his suspension as are actually provided by the doctor who becomes responsible for them during that period by virtue of regulation 25(2)(a).

(5) To the extent that such payments consist of the reimbursement of expenses for which the doctor must submit a claim, the suspended doctor shall receive reimbursement only in respect of those expenses which he continues to incur during the period of his suspension.

(6) In a case to which section 49B(3) of the Act applies, the determination shall provide for a deduction to take account of any payments which the suspended doctor receives for providing general medical services as an assistant or deputy.”

## Prevention of employment of disqualified or suspended doctors as deputies or assistants

6. In Schedule 2 of the principal Regulations (terms of service for doctors)—

(a) in paragraph 22 (which provides that a doctor must obtain the consent of the FHSA before entering into arrangements with a deputising service), in sub-paragraph (1)(a)(4), after “provided to him by the deputising service” insert—

“(i) will not be subject to a declaration either under section 46(2)(c) of the Act or under any corresponding provision in force in Scotland or Northern Ireland that he is not fit to be engaged in any capacity in the provision of general medical services and will not be suspended by direction of the Tribunal, other than in a case falling within section 49B(3) of the Act, and

(ii);  
and

(b) for paragraph 23 substitute—

“**23.** A doctor shall not engage as a deputy or employ as an assistant any doctor—

(a) who, having been disqualified under section 46(2)(b) of the Act (or under any corresponding provision in force in Scotland or Northern Ireland) from inclusion in the medical list of an FHSA (or, in Scotland, of a Health Board or, in Northern Ireland, of a Health and Social Services Board), is also the subject of a declaration under section 46(2)(c) of the Act (or any corresponding provision

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(4) Sub-paragraph (1)(a) is part of a substitution made by S.I. 1994/3130, regulation 12(3).

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

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- in force in Scotland or Northern Ireland) that he is not fit to be engaged in any capacity in the provision of general medical services; or
- (b) who is suspended by direction of the Tribunal, other than in a case falling within section 49B(3) of the Act.”.

**Amendment of Schedule 10 to the principal Regulations**

7. In Schedule 10 to the principal Regulations (drugs and other substances not to be prescribed for supply under pharmaceutical services), after the entry “Temazepam Planpak” there shall be inserted the entry “Temazepam Soft Gelatin Gel-Filled Capsules”.

30th November 1995

*Stephen Dorrell*  
Secretary of State for Health

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## EXPLANATORY NOTE

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

These Regulations further 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.

These Regulations make provision for the case where a general medical practitioner is suspended from the provision of general medical services by the NHS Tribunal in any part of the United Kingdom, either pending its investigation or pending an appeal from its decision; and for the case where a general medical practitioner who is disqualified by the Tribunal from providing general medical services is also declared to be unfit to provide general medical services in any capacity.

Regulation 3 protects a suspended doctor from removal from the medical list on the ground that he has not provided general medical services for 6 months.

Regulation 4 requires a Family Health Services Authority to make temporary arrangements for the provision of general medical services to a suspended doctor’s patients with one or more other doctors and provides that the patients are to be temporarily transferred to the lists of such other doctors and transferred back again if the suspended doctor is reinstated.

Regulation 5 provides for payments to be made to a suspended doctor.

Regulation 6 amends the doctors' terms of service to prevent a doctor engaging as a deputy or employing as an assistant either a suspended doctor or a doctor who has been disqualified and who is subject to a declaration by the NHS Tribunal that he is not fit to be engaged in any capacity in the provision of general medical services.

Regulation 7 includes “Temazepam Soft Gelatin Gel-Filled Capsules” in the list in Schedule 10 to the principal Regulations, which lists drugs and other substances which may not be prescribed by general medical practitioners for supply in the course of pharmaceutical services under the National Health Service Act 1977.