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STATUTORY INSTRUMENTS

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**1998 No. 658 (S.28)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

The National Health Service (Fund-holding Practices) (Scotland) Amendment Regulations 1998

<i>Made</i>	- - - -	<i>9th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 2(5), 87A(4), 87B(5), 87C(1) to (4), 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(1), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I  
INTRODUCTORY

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Fund-Holding Practices) (Scotland) Amendment Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Fund-Holding Practices) (Scotland) Regulations 1997(2).

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(1) 1978 c. 29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(1); sections 87A, 87B and 87C were inserted by the 1990 Act, section 34 and sections 87A and 87B were amended by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraphs 53 and 54; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, contains provision, and section 108(1) contains a definition of “regulations”, relevant to the exercise of the statutory powers under which these Regulations are made.

(2) S.I. 1997/1014.

**PART II**  
**AMENDMENTS CONSEQUENTIAL UPON THE NATIONAL  
HEALTH SERVICE (PRIMARY CARE) ACT 1997**

**Amendment of regulation 1 of the principal Regulations**

2.—(1) Regulation 1 of the principal Regulations (citation, commencement and interpretation) is amended as follows.

(2) In paragraph (2), in the appropriate position in alphabetical order, insert—

““the 1997 Act” means the National Health Service (Primary Care) Act 1997(3);”;

““personal medical services” has the meaning given to it in section 1(8) of the 1997 Act;”;

““pilot scheme” has the meaning given to it in section 1 of the 1997 Act;”;

““pilot scheme provider” means a person who provides personal medical services in connection with a pilot scheme;”.

(3) In paragraph (8) after the words “Health Board” where they first occur insert “or, in the case of a medical practitioner who is not included in a medical list but who performs personal medical services under a pilot scheme, to the address of the pilot scheme provider given in the pilot scheme”.

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

3. In regulation 2 of the principal Regulations (application for recognition as a fund-holding practice) in paragraph (5)—

(a) after the words “Health Authority” insert “or performs personal medical services under a pilot scheme to which a Health Authority is a party”; and

(b) after the words “National Health Service Act 1977” insert “or, as the case may be, performing personal medical services under a pilot scheme to which a Health Authority is a party”.

**Amendment of regulation 8 of the principal Regulations**

4. In regulation 8 of the principal Regulations (withdrawal or death of a member of a fund-holding practice) in paragraph (5)(a), after the words “Health Board” insert “or to perform personal medical services under a pilot scheme to which the Health Board is a party”.

**Amendment of regulation 17 of the principal Regulations**

5.—(1) Regulation 17 of the principal Regulations (payment for drugs, medicines and listed appliances) is amended as follows.

(2) Before paragraph (1) insert—

“(A1) This regulation does not apply to the members of a standard fund-holding practice or a primary care purchasing practice who perform personal medical services under a pilot scheme, and—

(a) the pilot scheme makes provision for the cost (however calculated) of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice to be deducted from the net consideration payable under the pilot scheme to the provider or accounted for in some other way; or

(b) under which there are to be provided services which are not personal medical services, but which are services which may be provided by virtue of section 1(3) of the 1997 Act (other than the provision of drugs, medicines or appliances for immediate treatment or by way of personal administration or application), and references in this regulation to “fund-holding practice” shall be construed accordingly.”.

#### **Amendment of regulation 20 of the principal Regulations**

6. In regulation 20 of the principal Regulations (payment of salaries), before paragraph (1) insert—
- “(A1) This regulation does not apply to the members of a standard fund-holding practice or primary care purchasing practice who perform personal medical services under a pilot scheme which makes provision for the cost (however calculated) of payments to staff to be included in the consideration payable under the pilot scheme to the provider, and references in this regulation to “fund-holding practice” shall be construed accordingly.”.

#### **Amendment of Schedule 1 to the principal Regulations**

7. In Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice), after paragraph 4 insert—

- “5. In the case of members of a practice who provide or perform personal medical services under a pilot scheme—
- (a) none of them is employed by another person in accordance with the requirements of section 87A(1)(4) of the Act;
  - (b) in connection with the pilot scheme each member of the practice has a list of patients and the members together do not have a single list of patients; and
  - (c) the pilot scheme does not provide for persons to receive under the pilot scheme any of the goods or services specified, in the case of standard fund-holding practices in Part I, and in the case of primary care purchasing practices in Part II, of the list approved from time to time by the Secretary of State for the purposes of regulation 18.”.

#### **Amendment of Schedule 2 to the principal Regulations**

8. In Schedule 2 to the principal Regulations (conditions for continuing recognition as a fund-holding practice) after paragraph 13 insert—

- “14. In the case of members of a practice who provide or perform personal medical services under a pilot scheme—
- (a) none of them is employed by another person in accordance with the requirements of section 87A of the Act;
  - (b) in connection with the pilot scheme each member of the practice has a list of patients and the members together do not have a single list of patients; and
  - (c) the pilot scheme does not provide for persons to receive under the pilot scheme any of the goods or services specified, in the case of standard fund-holding practices in Part I, and in the case of primary care purchasing practices in Part II, of the list approved from time to time by the Secretary of State for the purposes of regulation 18.”.

## PART III

### OTHER AMENDMENTS

#### **Amendment of regulation 8 of the principal Regulations**

9. In regulation 8 of the principal Regulations (withdrawal or death of a member of a fund-holding practice) sub-paragraph (a) of paragraph (3) is omitted.

#### **Amendment of regulation 9 of the principal Regulations**

10. In regulation 9 of the principal Regulations (application for change in status of recognised fund-holding practice) for paragraph (1) substitute–

“(1) A standard fund-holding practice may apply to become a primary care purchasing practice.”.

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

11. In regulation 10 of the principal Regulations (renunciation of recognition) in paragraph (2) sub-paragraphs (c) and (d) are omitted.

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

12. In regulation 11 of the principal Regulations (consequences of renunciation of recognition) in paragraph (1) for the words “31st March” substitute “the date”.

#### **Amendment of regulation 16 of the principal Regulations**

13. In regulation 16 of the principal Regulations (consequences of removal) for paragraph (1) (c) substitute–

“(c) subject to paragraph (2), the fund-holding account shall be treated as if it had been closed on the previous 31st March.”.

#### **Amendment of regulation 22 of the principal Regulations**

14. For paragraph (3) of regulation 22 of the principal Regulations (savings from the allotted sum) substitute–

“(3) The Health Board shall consent to the application in any financial year of accumulated savings from the allotted sum for any of the purposes specified in paragraph (2) (a) to (e) if it is satisfied–

- (a) that the proposed expenditure would be for the benefit of the patients of the members of the practice and would represent value for money; and
- (b) that the financial position of the members of the practice in relation to the allotted sum is such that, if the proposed expenditure were incurred, the savings then left to them would not be less than the total amount of any overspends which it is reasonable to predict for the relevant financial years.

(3A) In paragraph (3)–

“overspend” means any amount by which the liabilities incurred by the members of a fund-holding practice in any financial year other than for purposes for which Health Board consent is required under this regulation exceed the proposed allotted sum for that practice for that financial year; and

“relevant financial years” means—

- (a) the financial year in which Health Board consent to the proposed expenditure is sought; and
- (b) where the accounts for the previous financial year have not yet been audited as mentioned in paragraph (2), that financial year.”.

**Further amendment of Schedule 1 to the principal Regulations**

**15.** In Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice) in paragraph 3 for the words from “and that they possess” to the end substitute the words “and have agreed to undertake a period of preparation for fund-holding status for a minimum of 12 months”.

St Andrew’s House,  
Edinburgh  
9th March 1998

*Sam Galbraith*  
Minister for Health Scottish Office

**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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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Fund-holding Practices) (Scotland) Regulations 1997 (“the principal Regulations”), which provide for the recognition and operation of fund-holding practices.

Regulations 2 to 8 amend the principal Regulations to take account of the enactment of the National Health Service (Primary Care) Act 1997.

Regulations 9 to 15 make miscellaneous amendments to the principal Regulations. Regulation 10 removes the right of a primary care purchasing practice to apply to become a standard fund-holding practice and regulation 11 permits mid-year exits from fund-holding status. Regulation 14 makes further provision with regard to savings from the allotted sum. Regulation 15 amends Schedule 1 to the principal Regulations to provide for a minimum period of preparation of 12 months as a condition of obtaining recognition as a fund-holding practice.