
STATUTORY INSTRUMENTS

1998 No. 682

The National Health Service (General Medical Services) Amendment Regulations 1998

PART II

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

Other amendments

Practice vacancies where patients are subject to pilot scheme proposals

7.—(1) In regulation 12 (advertisement of vacancies), in paragraph (1), at the beginning insert “Subject to regulation 14A,”.

(2) In regulation 12A (re-advertisement of vacancies)(1), in paragraph (1), after “may” insert “(subject to regulation 14A)”.

(3) In regulation 13 (selection of applicants), in paragraph (1), after “and shall” insert “(subject to regulation 14A)”.

(4) In regulation 14 (determination of applications by Medical Practices Committee), in paragraph (1), after “shall” insert “(subject to regulation 14A)”.

(5) After regulation 14 of the 1992 Regulations, insert the following new regulation—

“Practice vacancies where patients are subject to pilot scheme proposals

14A.—(1) Paragraph (2) applies where—

- (a) a practice has been declared vacant, or a vacancy has arisen, as mentioned in regulation 5(2);
- (b) the Health Authority receives or has received a request under section 4 of the 1997 Act to prepare proposals for a pilot scheme and is under a duty to comply with that request or has done so;
- (c) in the Health Authority’s opinion those proposals relate, or would relate, to more than half of the patients whom it expects to be on the list of any doctor who would fill the vacancy or succeed to the practice; and
- (d) either—
 - (i) in a case to which regulation 13(2) applies, the Health Authority has not yet selected the applicant whose application it wishes to be considered by the Medical Practices Committee, or has not yet sent the application of the selected applicant to that Committee,

- (ii) in a case to which regulation 13(6) applies, the Health Authority has not yet sent the application to the Medical Practices Committee, or
 - (iii) where (in either case) an application has been sent to the Medical Practices Committee, that Committee has not yet determined it pursuant to regulation 14.
- (2) In a case referred to in paragraph (1), without prejudice to any steps that may already have been taken—
- (a) a Health Authority shall not—
 - (i) give notice or further notice of the vacancy pursuant to regulation 12 or 12A, or
 - (ii) select any applicant pursuant to regulation 13(2), or
 - (iii) send an application to the Medical Practices Committee pursuant to regulation 13(4)(c) or (6); and
 - (b) the Medical Practices Committee shall not begin to consider, or shall not further consider, pursuant to regulation 14 any application received by them which they have not already determined,
- until such time as one of the events set out in paragraph (3) has occurred.
- (3) The events referred to in paragraph (2) are that—
- (a) the proposals referred to in paragraph (1)(b) are rejected by the Secretary of State pursuant to section 5(1)(c) of the 1997 Act; or
 - (b) the proposals are withdrawn before the Secretary of State has made his decision under section 5 of the 1997 Act; or
 - (c) a pilot scheme implemented as a result of the proposals comes to an end, whether pursuant to a direction of the Secretary of State given under section 8(4) of the 1997 Act, or otherwise.
- (4) The Health Authority shall forthwith inform the Medical Practices Committee—
- (a) if paragraph (1)(a) to (c) apply, and if so whether paragraph (i) or (ii) of paragraph (1) (d) applies;
 - (b) if the Secretary of State approves the proposals in question (whether with or without modification); and
 - (c) where one of the events referred to in paragraph (3) occurs, of that fact.”.

Preferential right to be included in medical list

8.—(1) In regulation 4 of the 1992 Regulations (medical list), in paragraph (1)(a), after “Act” insert “or Schedule 1 of the 1997 Act”.

(2) In regulation 5 of the 1992 Regulations (application for inclusion in the medical list or to succeed to a vacancy), in paragraph (1), after “paragraph (2)” insert “or regulation 5A”.

(3) After regulation 5, insert the following regulation—

“Preferential right to be included in medical list

5A.—(1) An application by a doctor (“the applicant”) for inclusion of his name in a medical list by virtue of Schedule 1 to the 1997 Act shall be made by sending to the Health Authority an application in writing, which—

- (a) shall make clear that the application is made by virtue of that Schedule; and

- (b) shall include the information and undertakings specified in paragraphs 1 to 10 and 17 to 20 of Part I of Schedule 3, and in such other paragraphs of that Part of that Schedule as are relevant in the applicant's case.
- (2) Upon granting such an application, the Health Authority—
 - (a) must (subject to paragraph (3)) specify that the applicant's entry in the medical list is subject to one of the conditions which could have been specified by the Medical Practices Committee under regulation 15(1) if the application had been one to which that provision relates; and
 - (b) may also specify any condition which could have been specified under section 33(4)(b) of the Act if the application had been one to which that provision relates.
- (3) Where the applicant was subject to one of the conditions set out in sub-paragraphs (a) to (c) of regulation 15(1) when his name was last included in a medical list (or, where the applicant's name was included in the corresponding list kept by a Health Board in Scotland, he was subject to one of the corresponding conditions set out in regulations prepared in accordance with section 19(2)(a) of the National Health Service (Scotland) Act 1978⁽²⁾), the Health Authority may not under paragraph (2) specify (among those three conditions)—
 - (a) one which is more restrictive than the one which applied to him when his name was last so included; or
 - (b) one which is less restrictive, unless in the Health Authority's opinion there are exceptional reasons for doing so, and the Health Authority has consulted the Local Medical Committee.
- (4) The Health Authority shall notify the Medical Practices Committee of any successful application under paragraph (1) and of any conditions imposed under paragraph (2)."

Other amendments of the 1992 Regulations

9.—(1) The 1992 Regulations are amended in accordance with the following provisions of this regulation.

(2) In each of—

- (a) regulation 27(12)(a) (child health surveillance list); and
- (b) regulation 32(12)(a) (minor surgery list),

for "regulation 6(3) or regulation 7", substitute, in each case, "regulation 6(3), regulation 7, or section 12(2) of the 1997 Act".

(3) In regulation 29 (obtaining contraceptive services), in paragraph (5), for the words from "paragraph 4 of regulation 26" to the end, substitute "regulation 26 shall apply to terminate the provision of contraceptive services by any other doctor under paragraph (1), as if those services were general medical services provided to a person included in the list of that other doctor".

(4) In regulation 30(13)(a) (obstetric list), for "regulation 6(3) or 7" substitute "regulation 6(3), regulation 7, or section 12(2) of the 1997 Act".

(5) In Schedule 2—

- (a) in paragraph 4 (a doctor's patients), in sub-paragraph (1)(h), at the end add "(or if, in the case of a pilot doctor, more than one such doctor is under an obligation to give treatment, no such doctor practising from the premises to which the request was made is able to attend and give treatment)";

- (b) in paragraph 18A(3) (out of hours arrangements), at the end of sub-paragraph (2), insert “, but that arrangement shall terminate if the doctor with whom it is made ceases to be included in a medical list in accordance with section 12(2) of the 1997 Act to enable him to perform personal medical services under a pilot scheme”;
- (c) in paragraph 22(4) (organisations providing deputy doctors), in sub-paragraph (2)(a), after paragraph (iii), insert—
 - “(iv) will not be subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services; and”;
- (d) in paragraph 23(5) (employment of assistants and deputies), at the end of sub-paragraph (b), insert—
 - “; or
 - (c) who is subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services;”
- (e) in paragraph 32 (use of practice premises after declaration of vacancy), in sub-paragraph (1), after “whose practice has been declared vacant”, insert “(including premises occupied or used by a pilot doctor where the declaration of a vacancy arises from the termination of the pilot scheme in question)”; and
- (f) in paragraph 33 (use of former practice premises)—
 - (i) in sub-paragraph (1), after “made available by the Secretary of State” insert “(or, in the case of a pilot doctor, at premises used for the purposes of the pilot scheme in question)”, and
 - (ii) in paragraph (b) of sub-paragraph (2), after “the Secretary of State”, insert “or at premises used for the purposes of the pilot scheme in question”.
- (5) In Part I of Schedule 5 (criteria to be considered before inclusion in an obstetric list)—
 - (a) in paragraph 3(a), at the end, insert “or performed maternity medical services in connection with a pilot scheme”; and
 - (b) in paragraph 5, at the end, insert “, or performing maternity medical services in connection with a pilot scheme”.

(3) Paragraph 18A was inserted by [S.I. 1996/702](#), regulation 5(5).

(4) Paragraph 22 was substituted by [S.I. 1997/730](#), regulation 3.

(5) Paragraph 23 was substituted by [S.I. 1995/3093](#), regulation 6(b).