
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

Reason for amendments

2. The amendments in this Part are made because of the coming into force on 1st April 1998 of certain provisions of the National Health Service (Primary Care) Act 1997(1) and of certain Regulations made under those provisions.

*Amendments connected with the National Health Service
(Choice of Medical Practitioner) Regulations 1998*

Amendments of Parts I, IV and V of the 1992 Regulations

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

(2) In regulation 2(2) (interpretation)—

(a) in the appropriate alphabetical positions, insert—

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

“the Choice of Medical Practitioner Regulations” means the National Health Service (Choice of Medical Practitioner) Regulations 1998(4);

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

“pilot doctor” means a doctor who performs personal medical services in connection with a pilot scheme;

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

“pilot scheme agreement” means an agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme;

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

(1) 1997 c. 46. The provisions in question are brought into force by the National Health Service (Primary Care) Act 1997 Commencement (No. 4) Order 1998 (S.I. 1998/631).

(2) Regulation 2 was amended by S.I. 1995/3093, regulation 2, and by S.I. 1997/2468, regulation 3.

(3) 1997 c. 46.

(4) S.I. 1998.

- “pooled list” means a single list of the patients of two or more pilot doctors which is held in connection with a pilot scheme;”;
- (b) in the definition of “doctor”, at the end, insert “and when section 35 of the 1997 Act comes into force, includes a person engaged in employment under section 10 of the Medical Act 1983⁽⁵⁾ in an approved medical practice⁽⁶⁾,”
- (c) for the definition of “medical card”, substitute—
- ““medical card” means a card issued by a Health Authority to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services⁽⁷⁾, other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;”;
- (d) in the definition of “temporary resident”, for “regulation 26” substitute “regulation 7 of the Choice of Medical Practitioner Regulations”.
- (3) In regulation 19 (doctors' lists)—
- (a) in paragraph (1)(a), for “this Part” substitute “the Choice of Medical Practitioner Regulations”;
- (b) in paragraph (3), for “regulation 22(7)” substitute “regulation 3(3) of the Choice of Medical Practitioner Regulations”;
- (c) for paragraph (6), substitute—
- “(6) Any removal of a person from a doctor’s list caused by the transfer of a person to the list of another doctor or to a pooled list, other than a transfer under regulation 3(3) of the Choice of Medical Practitioner Regulations, or a transfer in pursuance of a notice under regulation 22(10), shall take effect—
- (a) from the date on which the Health Authority receives notification of the acceptance of the person by the last-named doctor or, in the case of a transfer to a pooled list, the pilot scheme provider; or
- (b) subject to the consent of the Health Authority, from such date, being not earlier than the date of that consent, as may be agreed between the doctors or, as the case may be, between the doctor and the pilot scheme provider.”; and
- (d) in paragraph (6B)⁽⁸⁾, for sub-paragraph (b) substitute—
- “(b) on receipt of the notification mentioned in sub-paragraph (1) of that paragraph, the Health Authority shall acknowledge it in writing and give written notice of the removal to the person concerned.”.
- (4) Regulations 20 (application for services) and 21 (assignment of persons to doctors) are omitted.
- (5) In regulation 22 (change of doctor)—
- (a) paragraphs (1) to (3) and (5) to (8) are omitted; and
- (b) in paragraph (4), at the end, insert “, or to a pooled list”.
- (6) In regulation 25 (temporary provision of services), in paragraph (2), after “ceases to be included in the medical list”, insert “(otherwise than in accordance with section 12(2) of the 1997 Act, to enable him to perform personal medical services in connection with a pilot scheme to which the Health Authority in whose list he was included is a party)”.

(5) 1983 c. 54.

(6) See section 11(4), as prospectively amended by section 35 of the 1997 Act. No relevant Regulations under Section 11 had been made at the date on which these Regulations were made.

(7) “Primary medical services” is defined in section 28F(6) of the Act, inserted by section 23(1) of the 1997 Act.

(8) Paragraph (6B) was inserted by S.I. 1994/633, regulation 6.

(7) For regulation 26 (temporary residents), substitute—

“Temporary residents

26.—(1) A person who is accepted as a temporary resident by a doctor under regulation 7 of the Choice of Medical Practitioner Regulations or by a pilot scheme provider under a pilot scheme agreement shall not be removed from the list of any doctor providing general medical services in which his name is included, unless the Health Authority for the area in which that doctor practises is satisfied, after due enquiry—

- (a) that the person’s stay in the place of temporary residence has exceeded three months; and
- (b) that he has not returned to his normal place of residence, or any other place within the practice area of the doctor in whose list his name is included.

(2) If a Health Authority is satisfied as mentioned in paragraph (1), it shall remove the name of the person from the list of the doctor in which it is included and, if practicable, inform the person of that fact and of his entitlement to seek acceptance by any doctor, including the doctor by whom he has been treated as a temporary resident, in the area in which he is living, and of the name and address of the Health Authority for that area.”.

(8) In regulation 31 (obtaining maternity medical services), in paragraph (4), for “regulation 20” substitute “regulation 2 of the Choice of Medical Practitioner Regulations”.

(9) In regulation 33 (obtaining minor surgery services), in paragraph (1), for “regulation 20(2)”, in both places, substitute “regulation 2(3) of the Choice of Medical Practitioner Regulations”.

Amendments of Schedule 2 to the 1992 Regulations

4.—(1) Schedule 2 to the 1992 Regulations (terms of service for doctors) is amended in accordance with the following provisions of this regulation.

(2) In paragraph 4 (a doctor’s patients)—

(a) in sub-paragraph (1)—

- (i) in paragraph (d), for “regulation 21”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”, and
- (ii) in paragraph (e), for “regulation 21(3)(b)”, substitute “regulation 4(4) of the Choice of Medical Practitioner Regulations”.

(b) in paragraph (b) of sub-paragraph (4)(9), for “regulation 26”, substitute “regulation 7 of the Choice of Medical Practitioner Regulations (temporary residents)”; and

(c) in sub-paragraph (5), for “regulation 21(3)(b)”, in both places, substitute “regulation 4(4) of the Choice of Medical Practitioner Regulations”.

(3) In paragraph 5 (relief from liability to give emergency treatment), for “regulation 21(11)”, substitute “regulation 4(8) of the Choice of Medical Practitioner Regulations”.

(4) In paragraph 6 (acceptance of patients), in sub-paragraph (2)—

- (a) after “medical list”, insert “(otherwise than in accordance with section 12(2) of the 1997 Act, to enable him to perform personal medical services in connection with a pilot scheme to which the Health Authority in whose list he was included is a party)”; and
- (b) for “regulation 22”, substitute “regulation 3 of the Choice of Medical Practitioner Regulations”.

(9) Sub-paragraph (4) was substituted by [S.I. 1994/633](#), regulation 8.

(5) In paragraph 7 (acceptance of patients), for “regulation 26(1)”, substitute “regulation 7(1) of the Choice of Medical Practitioner Regulations”.

(6) In paragraph 9 (termination of responsibility for patients), in each of paragraphs (1)(a) and (2)(b), after “another doctor”, insert “, or is accepted for inclusion in a pooled list”.

(7) In each of—

(a) paragraph 13(5)(a)(**10**) (provision of services to patients);

(b) paragraph 14(1) (newly registered patients); and

(c) paragraph 16(4) (patients aged 75 years and over),

for “regulation 21”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”.

Amendment of Schedule 5 to the 1992 Regulations

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In Schedule 5 to the 1992 Regulations, in Part II (maternity medical services), in paragraph 3(b), for “regulation 20(1)”, substitute “regulation 3 of the Choice of Medical Practitioner Regulations”.

*Amendments connected with the National Health Service
(Pilot Schemes: Part II Practitioners) Regulations 1998*

Further amendments of Schedule 2 to the 1992 Regulations

6.—(1) Schedule 2 to the 1992 Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph 19(**11**) (obligation to give treatment personally)—

(a) in sub-paragraph (3), after “on the obstetric list” in the second place where those words appear, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of maternity medical services under the pilot scheme”;

(b) in sub-paragraph (5), after “child health surveillance list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of child health surveillance services under the pilot scheme”; and

(c) in sub-paragraph (6), after “minor surgery list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of minor surgery services under the pilot scheme”.

(3) In paragraph 20(**12**) (responsibility for acts and omissions of deputies)—

(a) in sub-paragraph (1), after “sub-paragraph (2)” insert “or for which the doctor is not responsible, under sub-paragraph (3)”; and

(b) after sub-paragraph (2), insert—

“(3) Where, in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients, a pilot doctor acts as a deputy to a doctor whose name is included in the medical list, that doctor is not responsible for the acts or omissions of the pilot doctor(**13**).”.

(10) Paragraph 13 was substituted by [S.I. 1995/80](#), regulation 3(2).

(11) Paragraph 19 was amended by [S.I. 1996/702](#), regulation 5(6).

(12) Paragraph 20 was amended by [S.I. 1994/633](#) and [1997/730](#).

(13) See the National Health Service (Pilot Schemes: Part II Practitioners) Regulations 1998 (S.I. 1998), regulation 2(2)(b) for provision enabling doctors providing general medical services to participate in such arrangements.

(4) In paragraph 22(14) (organisations providing deputy doctors), for paragraph (a) of subparagraph (1), substitute—

“(a) consists only of—

- (i) doctors whose names are included in the list of a Health Authority and who arrange to act as deputies to each other, or
- (ii) pilot doctors and doctors whose names are included in the list of a Health Authority who co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients; and.”

(5) In paragraph 26 (issue of documents), after “the medical list”, insert “, or a pilot doctor acting as a deputy to a doctor whose name is included in the medical list in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients”.

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)(15), 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,

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

(15) Regulation 12A was inserted by [S.I. 1994/633](#) and amended by [S.I. 1995/80](#).

- (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⁽¹⁶⁾, 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**(17)** (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**(18)** (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**(19)** (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”.

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

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

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