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STATUTORY INSTRUMENTS

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**1992 No. 635**

**The National Health Service (General  
Medical Services) Regulations 1992**

**PART III**

**MEDICAL PRACTICES COMMITTEE**

**Appointment of members and tenure of office**

**10.**—(1) Subject to paragraphs (2) to (4), the chairman and other members of the Medical Practices Committee shall be appointed for a period of three years expiring on 31st March in any year.

(2) A member may be re-appointed on the expiration of his term of office.

(3) A member may resign by giving notice in writing to the Secretary of State, and a member who is appointed as being a person actively engaged in medical practice shall be deemed to have resigned if he ceases to be so engaged.

(4) In the case of a vacancy in membership occasioned by death or by resignation (including deemed resignation under paragraph (3)), a person shall be appointed to fill the vacancy for the remainder of the period for which his predecessor was appointed.

**Reports by the FHSA**

**11.**—(1) An FHSA shall, at least once in every three years, make to the Medical Practices Committee a report, containing the information set out in Part IV of Schedule 3, to enable the Medical Practices Committee to judge the adequacy of the medical services in the locality or its different parts.

(2) Subject to paragraphs (3) and (4), where a doctor dies or his name is otherwise withdrawn or removed from the medical list, except where the inclusion of that doctor's name in the list was by virtue only of his appointment under regulation 25, the FHSA shall make a report to the Medical Practices Committee containing the information set out in Part V of Schedule 3 and shall advise as to the need for filling the vacancy.

(3) Where the doctor who has died or whose name is otherwise withdrawn or removed from the medical list was included in the medical list of more than one FHSA, the FHSA in whose locality resides the largest number of individuals who are on his list of patients shall make a report to the Medical Practices Committee containing the information set out in Part V of Schedule 3 and advising as to the need for filling the vacancy and any other FHSA shall make a report to the Medical Practices Committee containing only the information set out in paragraphs 1(a) and (c) and 7 of Part V of Schedule 3.

(4) Where the doctor who has died or whose name is otherwise withdrawn or removed from the medical list was included in the list only as a restricted services principal, the FHSA shall make a report to the Medical Practices Committee containing only the information set out in paragraph 1(a) and (b) of Part V of Schedule 3.

(5) Before making any report under paragraph (1), (2), (3) or (4) the FHSA shall consult the Local Medical Committee.

### **Advertisement of vacancies**

**12.**—(1) Where it has been resolved that a vacancy has arisen or is about to arise in any locality, the FHSA for that locality shall, within such period as the Medical Practices Committee shall direct, give notice of the vacancy in accordance with paragraph (2).

(2) A notice of a vacancy—

(a) shall include—

(i) details of the nature and location of the vacancy,

(ii) where the vacancy is one in connection with which the Medical Practices Committee has indicated to the FHSA the nature of any condition which it is likely to impose under section 33(4) of the Act in relation to a successful applicant, details of that condition, and

(iii) the date by which any application to fill the vacancy must be sent or delivered to that FHSA;

(b) may include such other information about the vacancy or the locality as that FHSA considers appropriate, and

(c) shall be published in such manner as appears to that FHSA to be likely to bring the vacancy to the attention of doctors within and outside its locality.

(3) In this regulation and in regulation 13, “vacancy” means a requirement for—

(a) an additional doctor to provide general medical services otherwise than in succession to another doctor, as mentioned in regulation 5(2)(b); or

(b) a doctor to succeed to a practice which has been rendered vacant, as mentioned in regulation 5(6).

### **Selection of applicants by FHSA**

**13.**—(1) An application under regulation 5(2) in respect of a vacancy shall be an application to which the provisions of section 33(2A)(1) of the Act shall apply, and shall be dealt with by the FHSA in accordance with the following provisions of this regulation.

(2) Where the FHSA receives more than one such application in connection with any vacancy, it shall select the applicant whose application it wishes to be considered by the Medical Practices Committee.

(3) Before making its selection for the purposes of paragraph (2), the FHSA may give to any applicant for the vacancy an opportunity of making—

(a) representations to it in writing; and

(b) where the FHSA sees fit, representations to it in person.

(4) When the FHSA has selected an applicant, it shall—

(a) notify each applicant in writing whether or not he has been selected;

(b) inform any applicant who has not been selected of his right of appeal to the Secretary of State on a point of law under section 33(2A)(c) of the Act; and

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(1) Subsection (2A) was inserted into section 33 of the Act by section 23(2) of the National Health Service and Community Care Act 1990 (c. 19).

- (c) subject to paragraph (5), send the application of the selected applicant to the Medical Practices Committee, indicating in writing that it wishes that application to be considered by that Committee.
- (5) An application shall not be sent to the Medical Practices Committee under paragraph (4)(c) until—
- (a) the time has expired for bringing an appeal under section 33(2A)(c) of the Act in connection with the non-selection of any applicant for the vacancy to which the application relates; or
  - (b) where such an appeal is made—
    - (i) the appeal has been determined adversely to the appellant, or
    - (ii) where the appeal is successful, the FHSA has reconsidered the application in respect of which the appeal is made,whichever is the latest.
- (6) Where the FHSA receives only one application in connection with any vacancy it shall—
- (a) send the application to the Medical Practices Committee indicating in writing that it is the only application for that vacancy; and
  - (b) notify the applicant in writing that it has done so.

#### **Determination of applications by Medical Practices Committee**

**14.**—(1) The Medical Practices Committee shall determine applications under regulation 5 in accordance with the following paragraphs of this regulation.

(2) Subject to paragraph (3), in relation to any such application, the Medical Practices Committee shall—

- (a) where the application is made under regulation 5(1), consider the report made by the FHSA with respect to the application and any representations in writing made by the doctor in accordance with regulation 5(8);
- (b) before granting the application, ascertain whether or not the applicant is suitably experienced as mentioned in section 31 of the Act; and
- (c) where it grants the application, consider—
  - (i) which of the conditions mentioned in regulation 15(1) is appropriate in the case of the applicant, and
  - (ii) whether it should impose in relation to the applicant any condition mentioned in section 33(4)(b) of the Act.

(3) The Medical Practices Committee shall not determine an application under regulation 5(1) until it has received any representations in writing made by the doctor in accordance with regulation 5(8) or until the time allowed for the making of representations has expired, whichever is the earlier.

(4) The Medical Practices Committee shall not consider any application made under regulation 5(2) unless the FHSA has indicated that—

- (a) the application is the only one for the vacancy in question; or
- (b) it has selected the application for consideration by that Committee.

(5) Subject to paragraph (6), any determination of the Medical Practices Committee shall be the decision of the majority of those members who are present and voting at a meeting of the Committee.

(6) At any such meeting, four members of the Medical Practices Committee shall form a quorum, and in the case of an equality of votes the chairman shall have a second or casting vote.

(7) The Medical Practices Committee shall give notice in writing to the applicant whose application it has considered, the FHSA and the Secretary of State of its determination of that application, and shall inform any such applicant whose application is refused or granted subject to conditions of his right of appeal to the Secretary of State on a point of law.

(8) Where the Medical Practices Committee refuses an application under this regulation, it shall, when it gives notice to the applicant of its determination, include with the notice—

- (a) a statement of the reasons for its decision; and
- (b) in the case of an application under regulation 5(1), where the report from the FHSA to the Medical Practices Committee, made pursuant to regulation 5(3), (4), (5), or as the case may be, (6) supported the application, a copy of that part of the report.

### **Conditions under which general medical services are to be provided**

**15.—**(1) For the purposes of section 33(4)(a) of the Act, the condition by reference to which the Medical Practices Committee shall specify the provision of general medical services for which the applicant will be entitled to be remunerated is that he shall provide such services as—

- (a) a full-time doctor, that is to say a doctor who is to provide general medical services during not less than 26 hours in any week in which he is, pursuant to paragraph 29 of his terms of service, normally available to provide such services;
- (b) a three-quarter-time doctor, that is to say a doctor who is to provide such services during less than 26 hours but not less than 19 hours in any such week;
- (c) a half-time doctor, that is to say a doctor who is to provide such services during less than 19 hours, but not less than 13 hours, in any such week;
- (d) a job-sharing doctor, that is to say a doctor—
  - (i) who is to practise in partnership with another doctor whose name is included in the medical list, and
  - (ii) who is himself to provide such services during less than 26 hours in any such week, and
  - (iii) for whom the hours during which he is to provide such services are, when aggregated with the hours of that other doctor, to amount to not less than 26 hours in any such week; or
- (e) a restricted doctor, that is to say a doctor—
  - (i) who is a restricted list principal or a restricted services principal, and
  - (ii) who is to provide general medical services during such number of hours in any week as he shall have specified in his application pursuant to regulation 5.

(2) Where on 1st January 1991 a doctor's name was included in the medical list, that doctor shall be treated as if the Medical Practices Committee had on that date imposed in relation to him—

- (a) where the doctor was at that date available for not less than 26 hours in any week, the condition mentioned in paragraph (1)(a);
- (b) where the doctor was at that date available for less than 26 hours but not less than 19 hours in any week, the condition mentioned in paragraph (1)(b);
- (c) where the doctor was at that date available for less than 19 hours but not less than 13 hours in any week, the condition mentioned in paragraph (1)(c);
- (d) where the doctor was at that date available jointly with another doctor for not less than 26 hours in any week, the condition mentioned in paragraph (1)(d); or
- (e) where the doctor was at that date a restricted list principal or a restricted services principal, the condition mentioned in paragraph (1)(e), but as if for the reference in that sub-

paragraph to the hours specified by the doctor in his application, there was substituted a reference to the hours for which the doctor was, in any week, normally available to his patients immediately before 1st January 1991.

### **Variation of conditions**

**16.—(1)** A doctor whose name is included in a medical list may apply, in accordance with paragraph (2), for the variation of any condition—

- (a) imposed in relation to him by the Medical Practices Committee—
  - (i) under regulation 15(1) or treated, by virtue of regulation 15(2) as having been imposed by that Committee, in relation to the extent to which that doctor may carry out remunerated work, or
  - (ii) in accordance with section 33(4)(b) of the Act, excluding the provision by that doctor of general medical services in a specified part or parts of the locality of an FHSA; or
- (b) specified in relation to him by the Secretary of State on the determination of any appeal from a decision of the Medical Practices Committee.

(2) An application for the purposes of paragraph (1) shall be made in writing to the FHSA and shall include the information specified in Part VI of Schedule 3.

(3) On receipt of an application under this regulation, the FHSA shall forward the application to the Medical Practices Committee, together with its observations in writing on the application.

(4) Where the observations mentioned in paragraph (3) do not support the doctor's application under paragraph (1), the FHSA shall send to the doctor a copy of that part of those observations which do not support his application and the doctor may, within 14 days of receiving it, send to the Medical Practices Committee his representations in writing in response to the observations.

(5) The provisions of regulation 14(5) and (6) as respects the constitution and quorum of the Medical Practices Committee shall apply in the case of the determination by that Committee of an application under this regulation as they apply to the determination of an application under that regulation.

(6) The Medical Practices Committee shall not consider an application under this regulation until it has received representations from the doctor under paragraph (4) or until the time allowed under that paragraph for the making of representations has expired, whichever is the earlier.

(7) On consideration of an application under this regulation the Medical Practices Committee—

- (a) shall take account of the observations made by the FHSA and of any representations made by the doctor in response;
- (b) in determining the application, may refuse to vary the condition in question, or may—
  - (i) in the case of a condition mentioned in paragraph (1)(a)(i), vary the condition by imposing in relation to the doctor such other condition mentioned in regulation 15(1) (a) to (e) as has been requested in the application; and
  - (ii) in the case of a condition mentioned in paragraph (1)(a)(ii), vary the condition by specifying therein such other part or parts of the relevant locality (in which the doctor is to be excluded from providing general medical services) as that Committee considers appropriate,
- (c) shall give notice of its decision in writing to the doctor and to the FHSA.

(8) Where the Medical Practices Committee refuses under paragraph (7)(b) to vary a condition it shall, when it gives notice to the doctor of its decision—

- (a) include with the notice—
  - (i) a statement of the reasons for its decision, and

- (ii) in any case where the observations made by the FHSA to the Medical Practices Committee in pursuance of paragraph (3) supported the application, a copy of that part of those observations, and
  - (b) advise the doctor in writing of his right of appeal under paragraph (10).
- (9) Where the Medical Practices Committee varies a condition in the manner mentioned in head (ii) of paragraph 7(b), it shall, when it gives notice to the doctor of its decision—
  - (a) include with the notice a statement of the reasons for its decision; and
  - (b) advise the doctor in writing of his right of appeal under paragraph (10).
- (10) A doctor may appeal to the Secretary of State on a point of law against the refusal of the Medical Practices Committee to vary a condition under this regulation or its variation of a condition in the manner mentioned in head (ii) of paragraph (7)(b), and—
  - (a) paragraphs (2) to (9) of regulation 17 shall apply to the making and determination of any such appeal; and
  - (b) where the Secretary of State allows such an appeal, he shall remit the application to that Committee for reconsideration, and regulation 17(11) shall apply in that event.

### **Appeal to the Secretary of State**

**17.—(1)** Any appeal to the Secretary of State on a point of law—

- (a) pursuant to section 33(2A)(c) of the Act by a doctor who has not been selected by an FHSA as mentioned in paragraph (c) of that subsection;
- (b) pursuant to section 33(5) of that Act by a doctor whose application under section 30 of that Act has been refused by the Medical Practices Committee or has been granted by that Committee subject to conditions; or
- (c) pursuant to regulation 16(10) (variation of conditions in connection with inclusion in a medical list),

shall be made and determined in accordance with this regulation.

(2) A doctor may appeal by sending to the Secretary of State a notice of appeal within 21 days of the date on which notice of the decision of the FHSA or, as the case may be, the Medical Practices Committee is sent to him.

(3) A notice of appeal shall contain a concise statement of any point of law in respect of which the doctor contends that the decision of the FHSA or, as the case may be, the Medical Practices Committee is erroneous.

(4) If it appears to the Secretary of State that the appeal is of such a nature that it can properly be determined without an oral hearing, he may dispense with an oral hearing and determine the appeal summarily, and shall communicate his decision, together with the reasons for it, in writing to the appellant, and the FHSA or, as the case may be, the Medical Practices Committee.

(5) If the Secretary of State is of the opinion that an oral hearing is required, he shall appoint—

- (a) a person who is a barrister or a solicitor; and
- (b) where the Secretary of State sees fit, one or more other persons,

to hear the appeal.

(6) An oral hearing shall take place at such time and place as the Secretary of State may direct and, not less than 14 days before the date fixed for the hearing, notice of the hearing shall be sent to the appellant, the FHSA or, as the case may be, the Medical Practices Committee and in the case of an appeal mentioned in paragraph (1)(a), to the doctor whose application for appointment to the

vacancy to which the appellant's application relates was selected for consideration by the Medical Practices Committee.

(7) Subject to paragraphs (8) and (9), the procedure at the oral hearing shall be such as the person or persons hearing the appeal shall determine.

(8) The appellant and any of the parties to whom notice of the hearing is required to be given may attend and be heard in person or by counsel or solicitor or other representative.

(9) The FHSA or, as the case may be, the Medical Practices Committee, may be represented at the hearing by any duly authorised officer or member or by counsel or solicitor.

(10) The persons hearing the appeal shall make a report to the Secretary of State stating the relevant facts and their conclusions and the Secretary of State, after taking the report into consideration, shall give his decision and communicate it, together with the reasons for it, in writing to—

- (a) the appellant;
- (b) the FHSA or, as the case may be, the Medical Practices Committee; and
- (c) any doctor who has, under paragraph (6), been served with notice of the hearing.

(11) Where, on allowing an appeal, the Secretary of State remits an application to the FHSA or, as the case may be, to the Medical Practices Committee for reconsideration—

- (a) he shall give to that FHSA or, as the case may be, the Medical Practices Committee, such directions as appear to him to be desirable with a view to ensuring the proper determination of the application in accordance with the relevant law; and
- (b) the FHSA or, as the case may be, the Medical Practices Committee, shall redetermine the application and in so doing shall comply with any directions given by the Secretary of State under sub-paragraph (a) of this paragraph with respect to the determination of that application.

#### **Certificate that transaction does not involve sale of goodwill**

**18.** A certificate issued by the Medical Practices Committee under paragraph 1(3) of Schedule 10 to the Act shall be in the form set out in Schedule 7.