

SCHEDULE 2

Regulation 3(2)

Terms of Service for Doctors

ARRANGEMENT OF PARAGRAPHS

1. Interpretation
2. General
- 3-4 A doctor's patients
- 5-8 Acceptance of patients
- 9-12 Termination of responsibility for patients
13. Services to patients
- 14-15 Provision of services to patients during and outside normal hours
16. Newly registered patients
17. Patients not seen within 3 years
18. Patients aged 75 years or over
- 19-31 Transfer of responsibility, absences, deputies, assistants and partners
32. Practice premises
- 33-34 Arrangements at practice premises
35. Employees
36. Doctors' availability to patients
37. Availability to patients outside normal hours
38. Doctors available for only 4 days a week
39. Practice area
40. Notification of change of place of residence
41. Records
42. Certification
- 43-47 Fees
- 48-50 Prescribing
51. Practice leaflet
- 52-53 Complaints
54. Reports to medical officer of the Department
55. Inquiries about prescriptions and referrals
56. Annual reports
57. Incorporation of provisions of Regulations etc
- Signature
- Explanatory Note

Interpretation

1. In this Schedule—

“appliance” means an appliance which is included in a list for the time being approved by the Department for the purposes of Article 63 of the Order⁽¹⁾;

“assistant” includes a trainee general practitioner;

“chemical reagent” means a chemical reagent which is included in a list for the time being approved by the Department for the purposes of Article 63 of the Order;

(1) Article 63 was amended by Article 14 of S.I. 1978/1907 (N.I. 26), Article 5(1) of S.I. 1986/2023 (N.I. 20), Article 31 of S.I. 1991/194 (N.I. 1) and Article 3 of S.I. 1992/2671 (N.I. 18)

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“deputy” means a person to whom a doctor has, under paragraph 20, delegated the treatment of his patients;

“drug” includes medicine;

“Drug Tariff” means the statement published under regulation 9 of the Pharmaceutical Regulations;

“notice” means notice in writing;

“post-natal period” means the period of 14 days following the conclusion of a pregnancy;

“prescription form” means a form provided by the Agency and issued by a doctor to enable a person to obtain pharmaceutical services as defined by Article 63(1) of the Order;

“the Regulations” means the General Medical Services Regulations (Northern Ireland) 1997;

“Scheduled drug” means a drug or other substance specified in Schedule 10 or, except where the conditions in paragraph 45(2) are satisfied, in Schedule 11;

“single-handed practice” means a practice in which only one doctor is engaged.

General

2. Where a decision whether any, and if so what, action is to be taken under these terms of service requires the exercise of professional judgement, a doctor shall not, in reaching that decision, be expected to exercise a higher degree of skill, knowledge and care than—

- (a) in the case of a doctor providing child health surveillance services under regulation 27, maternity medical services under regulation 34 or minor surgery services under regulation 36, that which any general practitioner whose name is included in the child health surveillance list, the obstetric list or, as the case may be, the minor surgery list may reasonably be expected to exercise; and
- (b) in any other case, that which general practitioners as a class may reasonably be expected to exercise.

A doctor’s patients

3.—(1) Subject to sub-paragraph (2) and to paragraphs 9, 10, 11 and 12, a doctor’s patients are—

- (a) persons who are recorded by the Agency as being on his list;
- (b) persons whom he has accepted or agreed to accept for inclusion in his list, whether or not notification of that acceptance has been received by the Agency, and who have not been notified to him by the Agency as having ceased to be on his list;
- (c) for the limited period specified in sub-paragraphs (4) and (5), persons whom he has refused to accept for inclusion in his list;
- (d) persons who have been assigned to him under regulation 20;
- (e) for the limited period specified in sub-paragraph (6), persons in respect of whom he has been notified that an application has been made for assignment to him in a case to which regulation 20(3)(b) applies;
- (f) persons whom he has accepted for inclusion in his list as temporary residents;
- (g) in respect of services under paragraph 8, persons to whom he has agreed to provide those services;
- (h) persons to whom he may be requested to give treatment which is immediately required owing to an accident or other emergency at any place in his practice area, provided that—
 - (i) he is not, at the time of the request, relieved of liability to give treatment under paragraph 4; and

(ii) he is not, at the time of the request, relieved under paragraph 23(2) of his obligation to give treatment personally; and

(iii) he is available to provide such treatment,

and any persons by whom he is requested, and agrees, to give treatment which is immediately required owing to an accident or other emergency at any place in his practice area, provided there is no doctor who, at the time of the request, is under an obligation otherwise than under this head to give treatment to that person, or there is such a doctor but, after being requested to attend, he is unable to attend and give treatment immediately required;

(i) persons in relation to whom he is acting as deputy for another doctor under these terms of service;

(j) during the period of an appointment under regulation 24, persons whom he has been appointed to treat temporarily;

(k) in respect of child health surveillance services, contraceptive services, maternity medical services or minor surgery services, persons for whom he has undertaken to provide such services; and

(l) any person for whom he has accepted responsibility under an arrangement made under paragraph 20(2).

(2) Except in a case to which head (h), (i) or (j) of sub-paragraph (1) applies, a person shall not be a patient for the purposes of that sub-paragraph if a doctor has been notified by the Agency that he is no longer responsible for the treatment of that person.

(3) Where a person applies to a doctor for treatment and claims to be on that doctor's list, but fails to produce his medical card on request and the doctor has reasonable doubts about that person's claim, the doctor shall give any necessary treatment and shall be entitled to demand and accept a fee accordingly under paragraph 43(e), subject to the provision for repayment contained in paragraph 44. A doctor shall not order any drug or appliance on one of the order forms provided by the Agency so as to enable the person to obtain a drug or appliance as part of pharmaceutical services.

(4) Where a doctor—

(a) refuses to accept for inclusion in his list a person who lives in his practice area and who is not included in the list of another doctor practising in that area; or

(b) refuses to accept for inclusion in his list as a temporary resident a person to whom regulation 25 applies;

(c) has requested the removal with immediate effect of a person from his list in accordance with paragraph 10,

he shall on request give that person any immediately necessary treatment until the expiry of the period of 14 days beginning with the date when that person was refused acceptance (or, as the case may be, with the date when he requested the immediate removal of that person from his list), or until that person has been accepted by or assigned to another doctor, whichever occurs first.

(5) Where a doctor on the obstetric list refuses to provide maternity medical services in the case of a woman who applies to him for such services in accordance with regulation 34(2) or (3) and who is residing in the area within which the doctor has undertaken to provide maternity medical services, he shall, unless he is satisfied that she is already receiving maternity medical services from any other doctor in the area—

(a) give without charge to her such treatment including the supply of drugs and appliances, as may be immediately necessary, pending her acceptance for inclusion in the list of another doctor; and

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- (b) inform her of the name and place of attendance of any neighbouring doctor whose name is included in the obstetric list to whom application might be made and of the address of the nearest ante-natal clinic.
- (6) Where the Agency has notified a doctor that it is applying for the Department's consent under regulation 20(3)(b), the doctor shall give the person proposed for assignment any immediately necessary treatment until the Agency has notified him that—
- (a) the Department has determined whether or not the person is to be assigned to that doctor; and
 - (b) either the person has been accepted by, or assigned to, another doctor or another doctor has been notified that an application has been made, in a case to which regulation 20(3)(b) applies, to assign that person to him.
- (7) Nothing in this paragraph shall require a doctor to be responsible for the treatment in hospital of a person admitted to that hospital unless—
- (a) he is a member of staff of the hospital and the terms of his appointment allow him to provide—
 - (i) general medical services (other than maternity medical services); or
 - (ii) in the case of a doctor whose name is included in the obstetric list, maternity medical services; or
 - (b) the hospital concerned, or part of that hospital, is one in which patients are entitled to secure treatment by their own doctor, whether or not such doctor is a member of staff of that hospital.
4. A doctor who is elderly or infirm or who has been exempted by the Agency under regulation 20(5) from the liability to have persons assigned to him may be relieved by the Board of any liability to give treatment which is immediately required owing to an accident or other emergency between 7 pm on weekdays and 8 am on the following morning and between 1 pm on Saturday and 8 am on the following Monday to persons who are neither—
- (a) on his list; nor
 - (b) temporary residents for whom he is responsible; nor
 - (c) accepted for inclusion in his list for the provision of maternity medical services.

Acceptance of patients

- 5.—(1) Subject to sub-paragraph (2), a doctor may agree to accept a person for inclusion in his list if the person is eligible to be so accepted by him.
- (2) Where a doctor is responsible for treating the patients of another doctor whose name has been removed from the medical list, he may not consent to the transfer of any of those patients under regulation 21 to his own list or to that of his partner.
- (3) Where a doctor has agreed to accept a person for inclusion in his list he shall, within 14 days of receiving that person's medical card or form of application, or as soon after the expiry of that period as is practicable—
- (a) sign the medical card or, as the case may be, the form of application; and
 - (b) send it to the Agency.
- (4) Where, for the purposes of sub-paragraph (3), any person signs a medical card or form of application on behalf of a doctor he shall, in addition to his own signature, specify the name of the doctor on whose behalf he is signing.
6. A doctor may—

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- (a) undertake to provide contraceptive services to a woman who has applied to him in accordance with regulation 28;
 - (b) accept for inclusion in his list as a temporary resident a person who has applied to him in accordance with regulation 25(1);
 - (c) if his name is on the obstetric list, undertake to provide maternity medical services to a woman who has made an arrangement with him in accordance with regulation 34(2) or (3).
7. Notwithstanding that the person concerned is not on his list, a doctor may—
- (a) take a cervical smear from a woman who would be eligible for acceptance by him for inclusion in his list as a temporary resident or for whom he has undertaken to provide maternity medical services or contraceptive services; and
 - (b) vaccinate or immunise a person who would be eligible for acceptance by him for inclusion in his list as a temporary resident.
8. Where a doctor whose name is included in the obstetric list undertakes to provide maternity medical services required by a woman who applies to him in accordance with regulation 34(2) or (3), he shall advise the Board of the arrangement in such a form as it may require.

Termination of responsibility for patients

9.—(1) Subject to paragraph 10, a doctor may have any person removed from his list and shall notify the Agency in writing that he wishes to have a person removed from his list and, subject to sub-paragraph (2), the removal shall take effect—

- (a) on the date on which the person is accepted by or assigned to another doctor; or
 - (b) on the eighth day after the Agency receives the notice,
- whichever is the sooner.

(2) Where, at the date when the removal would take effect under sub-paragraph (1), the doctor is treating the person at intervals of less than 7 days, the doctor shall inform the Agency in writing of the fact and the removal shall take effect—

- (a) on the eighth day after the Agency receives notification from the doctor that the person no longer needs such treatment; or
- (b) on the date on which the person is accepted by or assigned to another doctor,

whichever is the sooner.

10.—(1) Where—

- (a) a person on a doctor's list has committed an act of violence against that doctor or has behaved in such a way that that doctor has feared for his safety; and
- (b) that doctor has reported the incident to the police,

that doctor may notify the Agency that he wishes to have that person removed from his list with immediate effect.

(2) Notification under sub-paragraph (1) may be given by any means, including telephone or fax, but, if not given in writing, shall subsequently be confirmed in writing within 7 days (and, for the purpose of this paragraph, a notification given by fax is not a notification given in writing).

(3) The time at which the doctor notifies the Agency shall be the time at which he makes the telephone call or sends or delivers the notification to the Agency.

(4) Where, pursuant to this paragraph, a doctor has notified the Agency that he wishes to have a person's name removed from his list with immediate effect, he shall take all reasonable steps to inform the person concerned.

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11. Where a doctor informs the Agency, in writing, that he wishes to terminate his responsibility for a temporary resident, his responsibility for that person shall cease in accordance with paragraph 9, as if the temporary resident were a person on his list.

12.—(1) A doctor with whom an arrangement has been made for the provision of any or all of the maternity medical services mentioned in regulation 34(1)(a) may agree with the woman concerned to terminate the arrangement and, in default of agreement, the doctor may apply to the Board for permission to terminate the arrangement.

(2) On an application under sub-paragraph (1), the Board, after considering any representations made by either party and after consulting the Local Medical Committee, may terminate the arrangement.

(3) Where a doctor ceases to provide any or all of the maternity medical services mentioned in regulation 34(1)(a), he shall inform any woman for whom he has arranged to provide such services that he is ceasing to provide them and that she may make a fresh arrangement to receive those services from another doctor.

Services to patients

13.—(1) Subject to paragraphs 2, 16 and 49, a doctor shall render to his patients all necessary and appropriate personal medical services of the type usually provided by general practitioners.

(2) The services which a doctor is required by sub-paragraph (1) to render shall include the following—

- (a) giving advice, where appropriate, to a patient in connection with the patient's general health and, in particular, about the significance of diet, exercise, the use of tobacco, the consumption of alcohol and the misuse of drugs or solvents;
- (b) offering to patients consultation and, where appropriate, physical examination for the purpose of identifying, or reducing the risk of, disease or injury;
- (c) offering to patients, where appropriate, vaccination or immunisation against measles, mumps, rubella, pertussis, poliomyelitis, diphtheria, tetanus and haemophilus influenzae type b;
- (d) arranging for the referral of patients, as appropriate, for the provision of any other health services under the Order;
- (e) giving advice, as appropriate, to enable patients to avail themselves of personal social services provided under the Order.

(3) A doctor is not required by sub-paragraph (1) or (2)—

- (a) to provide to any person child health surveillance services, contraceptive services, minor surgery services nor, except in an emergency, maternity medical services unless he has previously undertaken to the Board to provide such services to that person; or
- (b) where he is a restricted services principal, to provide any category of general medical services which he has not undertaken to provide.

(4) If a woman requires treatment immediately owing to an obstetric emergency, it shall be the duty of any doctor whose name is included in the obstetric list in whose practice area the emergency arises, who is summoned and is available or at whose surgery the woman attends and such a doctor is available, to give any treatment immediately necessary, unless a doctor who has undertaken to provide maternity medical services for her or his partner, deputy or assistant is available, and treatment under this sub-paragraph shall be given without charge unless she is not entitled to receive maternity medical services.

(5) Any charge made by a doctor in respect of treatment provided under sub-paragraph (4) shall be in accordance with any determination which may be made by the Department under regulation 37(2)(c).

(6) The treatment referred to in sub-paragraph (4) shall be given whether or not the woman is able to produce evidence of her entitlement to maternity medical services.

Provision of services to patients during and outside normal hours

14.—(1) In this paragraph, the services referred to in paragraph 13 are called the “relevant services”.

(2) Subject to the following provisions of this paragraph, a doctor shall render the relevant services during the hours for which he is normally available pursuant to paragraph 36 (in this paragraph referred to as “normal hours”)—

- (a) at his practice premises; or
- (b) in the case of a patient whose condition is such that, in the doctor’s reasonable opinion, it would be inappropriate for the patient to attend at the practice premises, at whichever of the places set out in sub-paragraph (5) as is appropriate.

(3) Outside normal hours, the doctor shall consider, in the light of the patient’s medical condition, whether a consultation is needed and, if so, when.

(4) If, in the doctor’s reasonable opinion, a consultation is needed before the next time at which the patient could be seen during normal hours, he shall render the relevant services—

- (a) at his practice premises;
- (b) at such other place as the Board has agreed, pursuant to paragraph 37, and he has informed the patient, pursuant to that paragraph, is a place where he will treat patients outside normal hours; or
- (c) in the case of a patient whose condition is such that, in the doctor’s reasonable opinion, it would be inappropriate for the patient to attend either at the practice premises or at such other place, at whichever of the places set out in sub-paragraph (5) as is appropriate.

(5) The places referred to in sub-paragraphs (2)(b) and (4)(c) are—

- (a) the place where the patient was residing when he was accepted by the doctor for inclusion in his list pursuant to paragraph 5 or, as the case may be, when he was assigned to the doctor pursuant to regulation 20 or, in the case of a patient who was previously on the list of a doctor in a practice declared vacant, when the doctor succeeded to the vacancy;
- (b) such other place as the doctor has informed the patient and the Board is the place where he has agreed to visit and treat the patient;
- (c) some other place in the doctor’s practice area.

(6) Nothing in this paragraph prevents the doctor from—

- (a) arranging for the referral of a patient pursuant to paragraph 13(2)(d) without first seeing the patient, in a case where the medical condition of the patient makes that course of action appropriate; or
- (b) visiting the patient in circumstances where this paragraph does not place him under an obligation to do so.

15.—(1) Subject to sub-paragraph (2), unless prevented by an emergency, a doctor shall attend and treat any patient who attends for the purpose at any place, and during the hours, for the time being approved by the Board under paragraph 36.

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(2) Sub-paragraph (1) shall not apply to a patient who attends when an appointment system is in operation and who has not previously made, and is not then given, an appointment to see the doctor.

(3) A doctor may refuse to attend and treat the patient to whom sub-paragraph (2) applies, provided that—

- (a) the patient's health would not thereby be jeopardised; and
- (b) the patient is offered an appointment to attend again within a time which is reasonable having regard to all the circumstances.

(4) A doctor shall take reasonable steps to ensure that no refusal is made pursuant to sub-paragraph (3) without his knowledge.

Newly registered patients

16.—(1) Subject to sub-paragraphs (4) to (10), where a patient has been accepted for inclusion in a doctor's list under paragraph 5 or assigned to a doctor's list under regulation 20, the doctor shall, in addition to and without prejudice to his other obligations in respect of that patient under these terms of service, within 28 days of the date of such acceptance or assignment, invite the patient to participate in a consultation either at his practice premises or, if the condition of the patient so warrants, at such other place as the doctor is obliged under paragraph 14(2)(b) to render personal medical services to that patient.

(2) Where a patient (or, in the case of a patient who is a child, his parent) agrees to participate in a consultation mentioned in sub-paragraph (1), the doctor shall, in the course of that consultation—

- (a) seek details from the patient as to his medical history and, so far as may be relevant to the patient's medical history, as to that of his consanguineous family, in respect of—
 - (i) illnesses, immunisations, allergies, hereditary conditions, medication and tests carried out for breast or cervical cancer;
 - (ii) social factors (including employment, housing and family circumstances) which may affect his health;
 - (iii) factors of his lifestyle (including diet, exercise, use of tobacco, consumption of alcohol and misuse of drugs or solvents) which may affect his health; and
 - (iv) the current state of his health;
- (b) offer to undertake a physical examination of the patient, comprising—
 - (i) the measurement of his blood pressure;
 - (ii) the taking of a urine sample and its analysis to identify the presence of albumen and glucose; and
 - (iii) the measurements necessary to calculate his body mass;
- (c) record, in the patient's medical records, his findings arising out of the details supplied by, and any examination of, the patient under this sub-paragraph;
- (d) assess whether and, if so, in what manner and to what extent he should render personal medical services to the patient;
- (e) in so far as it would not, in the opinion of the doctor, be likely to cause serious damage to the physical or mental health of the patient to do so, offer to discuss with the patient (or, where the patient is a child, his parent) the conclusions the doctor has drawn as a result of the consultation as to the state of the patient's health.

(3) On each occasion on which a doctor invites a patient to participate in a consultation mentioned in sub-paragraph (1) he shall—

- (a) make the invitation in writing or, if the invitation is initially made orally, confirm it in writing by a letter either handed to the patient or his representative or sent to the patient

- (or, in the case of a patient who is a child, his parent) at the address recorded in his medical records as being his last known home address;
- (b) record in the patient’s medical records the date of each such invitation and whether or not it was accepted; and
 - (c) where, as a result of making the invitation, the doctor becomes aware that the patient is no longer residing at the address shown in those medical records, advise the Agency accordingly.
- (4) A doctor shall not be obliged to offer a consultation mentioned in sub-paragraph (1)—
- (a) if he is a restricted services principal;
 - (b) in respect of a child under the age of 5 years; or
 - (c) to any patient who, immediately before his inclusion in his list, was a patient of a partner of the doctor and who, during the 12 months immediately preceding the date of his acceptance for inclusion in, or assignment to, the doctor’s list, had participated in a consultation mentioned in sub-paragraph (1); or
 - (d) to the extent allowed by the Board, to any patient within a class of patients in respect of which the Board or, on appeal, the Department has, pursuant to sub-paragraphs (5) to (9), deferred the doctor’s obligation under sub-paragraph (1).
- (5) Where a doctor assumes responsibility for a list of patients on his succession to a practice declared vacant or otherwise becomes responsible for a significant number of new patients within a short period, he may apply, in accordance with sub-paragraph (6), to the Board for the deferment of his obligation under sub-paragraph (1) for a period not exceeding 2 years from the date of the application.
- (6) An application pursuant to sub-paragraph (5) shall be made in writing and shall be accompanied by a statement of the doctor’s proposals, by reference to particular classes of patient, with a view to securing that all eligible patients are invited to participate in a consultation mentioned in sub-paragraph (1) by the end of the period of the deferment.
- (7) Within 2 months of receiving an application pursuant to sub-paragraph (5), the Board shall determine it—
- (a) by approving the application;
 - (b) by approving the application subject to conditions; or
 - (c) by refusing the application.
- (8) The Board shall give notice to the doctor of its determination under sub-paragraph (7) and—
- (a) where it imposes conditions pursuant to head (b) of that sub-paragraph; or
 - (b) refuses the application pursuant to head (c) of that sub-paragraph,
- it shall send the doctor a statement in writing of the reasons for its determination and of the doctor’s right of appeal under sub-paragraph (9).
- (9) A doctor may, within the period of 30 days beginning with and including the day on which he receives notice of the Board’s determination, appeal in writing to the Department against any refusal of an application, or against any condition subject to which an application is approved by the Board pursuant to sub-paragraph (7)(b) and, on determining such an appeal, the Department shall either confirm the Board’s determination or substitute its own determination for that of the Board.
- (10) The Department shall notify the doctor in writing of its determination and shall include with the notice a statement of its reasons for the determination.
- (11) In this paragraph and paragraph 17, “body mass” means the figure produced by dividing the number of kilograms in the patient’s weight by the square of the number of metres in his height.

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Patients not seen within 3 years

17.—(1) Subject to sub-paragraph (2), where a patient who—

- (a) has attained the age of 16 years but has not attained the age of 75 years; and
- (b) within the preceding 3 years has attended neither a consultation with, nor a clinic provided by, any doctor in the course of his provision of general medical services,

requests a consultation for the purposes of assessing whether he needs personal medical services, a doctor shall, in addition to and without prejudice to any other obligation under these terms of service, provide such a consultation.

(2) Sub-paragraph (1) shall not apply in the case of a doctor who is a restricted services principal.

(3) Where a doctor provides a consultation mentioned in sub-paragraph (1), the doctor shall, in the course of that consultation—

- (a) seek details from the patient as to his medical history and, so far as may be relevant to the patient's medical history, as to that of his consanguineous family, in respect of—
 - (i) illnesses, immunisations, allergies, hereditary conditions, medication and tests carried out for breast or cervical cancer;
 - (ii) social factors (including employment, housing and family circumstances) which may affect his health;
 - (iii) factors of his lifestyle (including diet, exercise, use of tobacco, consumption of alcohol and misuse of drugs or solvents) which may affect his health; and
 - (iv) the current state of his health;
- (b) offer to undertake a physical examination of the patient, comprising—
 - (i) the measurement of his blood pressure;
 - (ii) the taking of a urine sample and its analysis to identify the presence of albumen and glucose; and
 - (iii) the measurements necessary to detect any changes in body mass;
- (c) record, in the patient's medical records, his findings arising out of the details supplied by, and any examination of, the patient under this sub-paragraph;
- (d) assess whether and, if so, in what manner and to what extent he should render personal medical services to the patient;
- (e) in so far as it would not, in the opinion of the doctor, be likely to cause serious damage to the physical or mental health of the patient to do so, offer to discuss with the patient the conclusions the doctor has drawn as a result of the consultation as to the state of the patient's health.

Patients aged 75 years and over

18.—(1) Subject to sub-paragraph (2), a doctor shall, in addition to and without prejudice to any other obligations under these terms of service, in each period of 12 months beginning on 1st April in each year—

- (a) invite each person on his list who has attained the age of 75 years to participate in a consultation; and
- (b) offer to make a domiciliary visit to each such patient,

for the purpose of assessing whether he needs to render personal medical services to that patient.

(2) Sub-paragraph (1) shall not apply in the case of any doctor who is a restricted services principal.

(3) Any consultation pursuant to sub-paragraph (1) may take place in the course of a domiciliary visit pursuant to that sub-paragraph.

(4) In the case of a patient who is accepted for inclusion in a doctor's list pursuant to paragraph 5, or assigned to him pursuant to regulation 20, and who has attained the age of 75 years when he is so accepted or assigned, an invitation and an offer pursuant to sub-paragraph (1) shall be made within 12 months of the date of his acceptance or assignment.

(5) A doctor shall, when making an assessment following a consultation under sub-paragraph (1), record in the patient's medical records the observations made of any matter which appear to him to be affecting the patient's general health including, where appropriate, the patient's—

- (a) sensory functions;
- (b) mobility;
- (c) mental condition;
- (d) physical condition including continence;
- (e) social environment; and
- (f) use of medicines.

(6) A doctor shall keep with the patient's medical records a report of any observations made in the course of a domiciliary visit made pursuant to sub-paragraph (1) which are relevant to the patient's general health.

(7) When inviting a patient to participate in a consultation or offering him a domiciliary visit pursuant to sub-paragraph (1), a doctor shall comply with the requirements of paragraph 16(3) as if that paragraph referred to such an offer as well as to an invitation.

(8) Where a patient has participated in a consultation pursuant to sub-paragraph (1), the doctor shall offer to discuss with him the conclusions he has drawn, as a result of the consultation, as to the state of the patient's health, unless to do so would, in the opinion of the doctor, be likely to cause serious harm to the physical or mental health of the patient.

Transfer of responsibility, absences, deputies, assistants and partners

19. Subject to paragraph 20 a doctor is responsible for ensuring the provision for his patients of the services referred to in paragraph 13 throughout each day during which his name is included in the medical list.

Out of hours arrangements

20.—(1) In this paragraph and in paragraph 21—

- (a) “out of hours period” means—
 - (i) the period beginning at 7 pm on a weekday other than a Saturday and ending at 8 am on the following day;
 - (ii) the period between 1 pm on a Saturday and 8 am on the following Monday; and
 - (iii) Bank and Public holidays,and “part of an out of hours period” means any part of any one or more of the periods described in sub-heads (i) to (iii);
- (b) “out of hours arrangement” means an arrangement under sub-paragraph (2); and
- (c) “transferee doctor” means a doctor who has undertaken to carry out the obligations of another doctor under these terms of service during part or all of the out of hours period in accordance with an out of hours arrangement.

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(2) Subject to sub-paragraphs (3) to (15), a doctor may, with the approval of the Board, make an arrangement with a doctor whose name is included in the medical list to transfer his obligations under the terms of service during part or all of the out of hours period to that other doctor.

(3) A doctor may make more than one out of hours arrangement; and may do so (for example) with different transferee doctors and in respect of different patients, different times and different parts of his practice area.

(4) A doctor may retain responsibility for or make separate out of hours arrangements in respect of the provision of maternity medical services to patients with whom he has made an arrangement under regulation 34.

(5) Nothing in this paragraph shall prevent a doctor from retaining or resuming his obligations in relation to named patients.

(6) Where a doctor's name is included in the obstetric list, he shall not make an out of hours arrangement in respect of the provision of maternity medical services to patients with whom he has made an arrangement under regulation 34 unless the transferee doctor's name is also included in the obstetric list.

(7) An application to the Board for approval shall be made in writing and shall state—

- (a) the name and address of the proposed transferee doctor, and the number of patients on his list;
- (b) the periods during which the doctor's obligations under these terms of service are to be transferred;
- (c) how the proposed transferee doctor intends to meet the doctor's obligations during the periods specified under head (b);
- (d) the arrangements for the transfer of the doctor's obligations under these terms of service to and from the transferee doctor at the beginning and end of the periods specified under head (b);
- (e) whether the proposed arrangement includes the doctor's obligations in respect of maternity medical services;
- (f) how long the proposed arrangements are intended to last and the circumstances in which the doctor's obligations under these terms of service during the periods specified under head (b) would revert to him;
- (g) what arrangements are proposed to enable the doctor's patients to contact the proposed transferee doctor; and
- (h) whether the proposed transferee doctor—
 - (i) has been notified under regulation 7(4) of the Tribunal Regulations (Northern Ireland) 1995⁽²⁾ that the Tribunal intends to hold an inquiry under paragraph 1 of Schedule 11 to the Order as to representations made in relation to him; or
 - (ii) has been notified under section 42(5) of the Medical Act 1983⁽³⁾ that the Preliminary Proceedings Committee of the General Medical Council has decided that he should be referred to the Professional Conduct Committee or to the Health Committee.

(8) A Board shall determine the application before the end of the period of 28 days beginning with and including the day on which the Board received it.

(9) A Board shall grant approval to a proposed out of hours arrangement if it is satisfied—

- (a) having regard in particular to the interests of the doctor's patients, that the arrangement is reasonable;

(2) S.R. 1995 No. 493

(3) 1983 c. 54

- (b) having regard in particular to all reasonably foreseeable circumstances, that the arrangement is practicable and will work satisfactorily;
- (c) that it will be clear to the doctor's patients how to seek personal medical services during the out of hours period; and
- (d) that if the arrangement comes to an end, the doctor has in place proper arrangements for the immediate resumption of his responsibilities,

and shall not refuse to grant approval without first consulting the Local Medical Committee.

(10) The Board shall give notice to the doctor of its determination and, where it refuses an application, it shall send the doctor a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (11).

(11) A doctor may, within the period of 30 days beginning with and including the day on which the Board's notification under sub-paragraph (10) was received by him, appeal in writing to the Department against any refusal of an application made under sub-paragraph (7).

(12) The Department may, when determining an appeal, either confirm the determination of the Board or substitute its own determination for that of the Board.

(13) The Department shall give notice to the doctor of its determination and shall in every case include with the notification a written statement of the reasons for the determination.

(14) Where the Board (or, on appeal, the Department) has approved an out of hours arrangement—

- (a) the transferee doctor may himself employ or engage an assistant or deputy in respect of part or all of the period covered by the out of hours arrangement; and if he does so, paragraph 23 shall apply as if he were the doctor for the purposes of that paragraph; and
- (b) a transferee doctor shall not enter into any other out of hours arrangement in respect of the patients for whom he has accepted responsibility under this paragraph.

21.—(1) Subject to paragraph 22, where it appears to the Board that it may no longer be satisfied as to any of the matters referred to in heads (a) to (d) of paragraph 20(9), it may give notice in writing to the doctor that it proposes to review the approval.

(2) On any review under sub-paragraph (1), the Board shall allow the doctor a period of 30 days, beginning with and including the day on which it sent the notice, within which to make representations in writing to the Board.

(3) After considering any representations made in accordance with sub-paragraph (2), the Board may determine either to continue or to withdraw its approval but shall not withdraw its approval without first consulting the Local Medical Committee.

(4) The Board shall give notice to the doctor of a determination under sub-paragraph (3).

(5) Where the Board withdraws its approval, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (6).

(6) A doctor may, within the period of 30 days beginning with and including the day on which the notice referred to in sub-paragraph (4) was received by him, appeal in writing to the Department against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 20 shall apply to any such appeal.

(7) Subject to paragraph 22(1), where the Board withdraws approval, the withdrawal shall not take effect until the end of the period of 2 months beginning with and including the date on which the notice referred to in sub-paragraph (4) was sent or where there is an appeal under sub-paragraph (6) and the appeal is dismissed, the date on which the doctor receives notice of the dismissal of the appeal, whichever is the later.

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22.—(1) Where it appears to the Board, whether after a review under paragraph 21 or not, that it is necessary in the interests of the doctor’s patients to withdraw its approval immediately, it may withdraw its approval.

(2) The Board shall give notice to the doctor of a determination under sub-paragraph (1) and shall include with the notice a statement of the reasons for its determination and of the doctor’s right of appeal under sub-paragraph (4).

(3) An immediate withdrawal of approval under paragraph (1) shall take effect on the day on which the notice referred to in sub-paragraph (2) is received by the doctor.

(4) A doctor may, within the period of 30 days beginning with and including the day on which the notice referred to in sub-paragraph (2) was received by him, appeal in writing to the Department against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 20 shall apply to any such appeal.

23.—(1) Subject to sub-paragraphs (2) to (7), a doctor shall give treatment personally.

(2) Subject to sub-paragraphs (3), (5) and (6), and to any out of hours arrangements made under paragraph 20(2), a doctor (in this sub-paragraph referred to as “the patient’s doctor”) shall be under no obligation to give treatment personally to a patient provided that reasonable steps are taken to ensure the continuity of the patient’s treatment, and in those circumstances the treatment may be given—

- (a) by another doctor acting as a deputy, whether or not he is a partner or assistant of the patient’s doctor; or
- (b) in the case of treatment which it is clinically reasonable in the circumstances to delegate someone other than a doctor, by a person whom the doctor has authorised and who he is satisfied is competent to carry out such treatment.

(3) Subject to sub-paragraph (4), in the case of maternity medical services a doctor whose name is included in the obstetric list shall not arrange for the provision of such services by another doctor unless that doctor’s name is included in the obstetric list.

(4) Sub-paragraph (3) shall not apply where there has been a summons to an obstetric emergency.

(5) In the case of child health surveillance services, a doctor who has, pursuant to regulation 27, undertaken to provide such services shall not arrange for the provision of such services by—

- (a) another doctor unless that doctor’s name is included in the child health surveillance list; or
- (b) any other person without the consent of the Board.

(6) In the case of minor surgery services, a doctor who has, pursuant to regulation 36, undertaken to provide such services shall not arrange for the provision of such services by—

- (a) another doctor unless that doctor’s name is included in the minor surgery list; or
- (b) any other person.

(7) In this paragraph “a summons to an obstetric emergency” means a summons to the doctor by a midwife or by or on behalf of the patient to attend when medical attention is required urgently by a woman or her baby during pregnancy, labour or the post-natal period.

24.—(1) In relation to his obligations under these terms of service, a doctor is responsible for all acts and omissions of—

- (a) any doctor acting as his deputy;
- (b) any organisation providing deputy doctors as mentioned in paragraph 26 with which he has entered into an arrangement in accordance with that paragraph while acting on his behalf; and

- (c) any person employed by, or acting on behalf of, him or such a deputy or such an organisation,

except where the act or omission is one for which a deputy is responsible under sub-paragraph (2) or (3).

(2) Where a doctor whose name is included in the medical list is acting as a deputy to another doctor whose name is also included in that list, the deputy alone is responsible for—

- (a) his own acts and omissions in relation to the obligations under these terms of service of the doctor for whom he acts as deputy; and
- (b) the acts and omissions of any person employed by him or acting on his behalf.

(3) A deputy, including a partner acting as a deputy, or an assistant whose name is included in the obstetric list shall be responsible for his own acts and omissions.

25.—(1) A doctor shall inform the Board of the arrangements for the engagement of a deputy on a regular basis unless the deputy—

- (a) is an assistant of the doctor, or is a doctor whose name is included in the medical list; and
- (b) is to carry out the arrangements at the doctor's premises.

(2) Where the doctor proposes to be absent from his practice for more than 14 days, he shall inform the Board of the name of any doctor responsible for his practice during his absence.

26.—(1) In this paragraph, “organisation providing deputy doctors” means a person who provides deputies to doctors and includes a body which—

- (a) consists only of doctors whose names are included in the medical list and who arrange to act as deputies to each other; and
- (b) keeps separate accounts in relation to such arrangements.

(2) Before entering into arrangements with an organisation providing deputy doctors for the provision of any deputy, a doctor shall—

- (a) obtain the written agreement of that organisation that any doctor it provides to him—
 - (i) will not be subject to a declaration under either paragraph 3(c) of Schedule 11 to the Order or under any corresponding provision in force in England and Wales or Scotland that he is not fit to be engaged in any capacity in the provision of general medical services;
 - (ii) will not be suspended by direction of the Tribunal, other than in a case falling within paragraph 8B(3) of Schedule 11 to the Order;
 - (iii) will (unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training) be suitably experienced within the meaning of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978 (other than by virtue of being a restricted services principal) or will have the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(4); and
- (b) take all reasonable steps to satisfy himself that the service provided by the organisation (including its monitoring arrangements) will be adequate and appropriate having regard in particular to the interests of the doctor's patients.

(3) A doctor shall notify the Board of any arrangements he makes with an organisation providing deputy doctors.

(4) [S.I. 1994/3130](#)

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(4) A doctor shall from time to time and at any time when there are grounds for doing so, take reasonable steps to satisfy himself that an organisation providing deputy doctors with which he has entered into arrangements for the provision of any deputy—

- (a) continues to comply with the agreement referred to in sub-paragraph (2)(a); and
- (b) continues to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).

(5) Subject to sub-paragraph (6), if the Board so requests, a doctor shall furnish it with evidence that such an organisation is continuing—

- (a) to comply with the agreement mentioned in sub-paragraph (2)(a); or, as the case may be,
- (b) to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).

(6) A Board shall not make a request for evidence under sub-paragraph (5)(b) unless—

- (a) it has reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b); and
- (b) it has consulted the Local Medical Committee.

(7) Subject to sub-paragraph (8), where in response to a request for evidence under sub-paragraph (5)(b) the Board continues to have reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b), it shall give notice (in this paragraph referred to as a “remedial notice”) to the doctor specifying—

- (a) the grounds for its concern;
- (b) the remedial action which it considers necessary; and
- (c) the date before which such action must be taken.

(8) A Board shall not issue a remedial notice under sub-paragraph (7) without first consulting the Local Medical Committee.

(9) Where a Board issues a remedial notice under sub-paragraph (7), it shall also send a copy of that notice to any other doctor who has made arrangements with the organisation providing deputy doctors.

(10) Where it appears to the Board—

- (a) that an organisation providing deputy doctors with which a doctor has made arrangements for the provision of a deputy—
 - (i) is not complying with the agreement referred to in sub-paragraph (2)(a); or
 - (ii) has not taken the action specified in a remedial notice issued under sub-paragraph (7) within the time specified in that notice; or
- (b) that a doctor’s arrangement with such an organisation is such that the doctor’s patients are at risk,

it may give notice to the doctor requiring him to bring his arrangement with that organisation to an end either immediately or before such date as is stated in the notice.

27. A doctor shall not engage another doctor as a deputy, or employ one as an assistant, unless the other doctor—

- (a) is suitably experienced within the meaning of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978 (other than by virtue of being a restricted services principal); or

- (b) has the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994; or
 - (c) is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training.
28. A doctor shall not engage as a deputy or employ as an assistant any doctor—
- (a) who, having been disqualified under paragraph 3(b) of Schedule 11 to the Order (or under any corresponding provision in operation in England and Wales or Scotland) from inclusion of his name in the medical list (or, in England and Wales, the medical list of a Health Authority or, in Scotland, the medical list of a Health Board), is also the subject of a declaration under paragraph 3(c) of Schedule 11 to the Order (or any corresponding provision in operation in England and Wales or Scotland) 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 paragraph 8B(3) of Schedule 11 to the Order.
- 29.—(1) A doctor shall—
- (a) inform the Board of the name of any assistant he employs and of the termination of such employment;
 - (b) on request, furnish on a form supplied by the Board any information in connection with the employment notified to the Board in head (a) which may be required by the Agency for the purposes of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(5);
 - (c) not employ any one or more assistants for a total period of more than 3 months in any period of 12 months without the consent of the Board.
- (2) The Board shall periodically review and may withdraw any consent given but, before refusing or withdrawing consent, the Board shall consult the Local Medical Committee and shall notify the doctor of any refusal or withdrawal of consent.
- (3) The doctor may, within the period of 30 days beginning with and including the day on which he receives notification of the Board's determination, appeal to the Department against any refusal or withdrawal of consent.
- (4) Any withdrawal of consent under this paragraph shall not have any effect until the expiration of a period of one month after the date of notification of the withdrawal, but if the doctor appeals to the Department against the withdrawal and the Department dismisses the appeal, the withdrawal shall not take effect until after such date as the Department determines being a date falling not less than one month after the date of the dismissal of the appeal.
- 30.—(1) A doctor acting as a deputy shall be entitled to treat patients at places and at times other than those arranged by the doctor for whom he is acting, due regard being had to the convenience of the patients.
- (2) A doctor acting as a deputy for another doctor may not treat the other doctor's patients at any place approved under paragraph 36 unless it is so approved for the availability of that other doctor.
31. When issuing any document under these terms of service, a deputy or assistant (other than a partner or assistant whose name is included in the medical list) shall, as well as signing the document himself, enter on it the name of the doctor for whom he is acting, if it does not already appear.

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Practice Premises

32. A doctor shall not, except with the approval of the Board, provide general medical services in premises occupied by a chemist.

Arrangements at practice premises

33. A doctor shall—

- (a) provide proper and sufficient accommodation—
 - (i) at his practice premises, having regard to the circumstances of his practice; and
 - (ii) at any other premises at which the Board, in accordance with paragraph 36, has agreed he may treat his patients; and
- (b) on receipt of a written request from the Board, allow inspection of those premises at a reasonable time by a member or officer of the Board or Local Medical Committee or both, authorised by the Board for the purpose.

34. A doctor who—

- (a) intends to operate an appointments system;
- (b) succeeds to a practice where such a system is in operation; or
- (c) joins a partnership operating such a system,

shall notify the Board of any appointments system which he proposes to operate or, as the case may be, of any proposal to discontinue such a system.

Employees

35.—(1) A doctor shall, before employing any person to assist him in the provision of general medical services, take reasonable care to satisfy himself that the person in question is both suitably qualified and competent to discharge the duties for which he is to be employed.

(2) The duty imposed by paragraph (1) is in addition to the duty imposed by paragraph 27(a) so far as it relates to assistants.

(3) When considering the competence and suitability of any person for the purpose of sub-paragraph (1), a doctor shall have regard, in particular, to—

- (a) that person's academic and vocational qualifications;
- (b) that person's training and his experience in employment; and
- (c) any guidance issued by the Board pursuant to regulation 43.

(4) A doctor shall afford to each employee reasonable opportunities to undertake appropriate training with a view to maintaining that employee's competence.

Doctors' availability to patients

36.—(1) Any doctor whose name is included in the medical list shall—

- (a) be available normally at such times and places as, following an application by the doctor, the Board shall approve after consultation with the Local Medical Committee, or, on appeal the Department, shall determine in his case, in accordance with the requirements of the following provisions of this paragraph; and
- (b) inform his patients about his availability in such manner as the Board may require in accordance with sub-paragraph (16).

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(2) Subject to sub-paragraphs (3), (4), (5) and (6), the Board shall not approve any application submitted to it by a doctor in relation to the times at which he is to be available unless it is satisfied that—

- (a) the times proposed are such that the doctor will normally be available—
 - (i) in 42 weeks in any period of 12 months;
 - (ii) for no less than the number of hours in any such week which are specified in relation to him under regulation 13; and
 - (iii) on 5 days in any such week;
- (b) the hours for which the doctor will normally be available in any week shall be allocated between the days on which he will normally be available in that week in a manner likely to be convenient to his patients;
- (c) where the doctor is a three-quarter-time doctor or a half-time doctor, he is practising in partnership with—
 - (i) another doctor whose name is included in the medical list and who is himself a full-time doctor; or
 - (ii) 2 job-sharing doctors whose names are included in the medical list and whose hours are aggregated for the purposes of head (d);
- (d) where the doctor is a job-sharing doctor—
 - (i) he is practising in partnership with another doctor whose name is included in the medical list; and
 - (ii) the hours for which both doctors will normally be available will, in aggregate, be not less than 26 hours in any week referred to in head (a)(i).

(3) On any application made pursuant to sub-paragraph (1) by a three-quarter-time doctor or a half-time doctor—

- (a) head (a)(iii) of sub-paragraph (2) shall not apply; and
- (b) any approval of the application shall be subject to the condition that the approval shall lapse after the expiry of a period of 6 months from the date on which that doctor ceases to satisfy sub-paragraph (2)(c).

(4) On any application made pursuant to sub-paragraph (1) by a job-sharing doctor—

- (a) head (a)(iii) of sub-paragraph (2) shall apply so as to require either the job-sharing doctor or the other doctor referred to in sub-paragraph (2)(d) to be normally available on each of the days mentioned in that head; and
- (b) any approval of the application shall be subject to the condition that the approval shall lapse after the expiry of a period of 6 months from the date on which the doctor ceases to satisfy sub-paragraph (2)(d).

(5) On any application made pursuant to sub-paragraph (1) by a doctor who is a restricted list principal or a restricted services principal, sub-paragraph (2)(a)(i) and (iii), (c) and (d) shall not apply.

(6) The Board may, in relation to the application of any full-time doctor who seeks normally to be available on only 4 days in any week referred to in sub-paragraph (2)(a)(i), excuse the doctor from the requirement of head (a)(iii) of that sub-paragraph and approve the application to the extent allowed by paragraph 38.

(7) In this paragraph and in paragraph 38, “available” means, in relation to a doctor, available to provide general medical services to his patients, and for the purposes of calculating the time at which a doctor is regarded as available—

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- (a) account may be taken of any period when the doctor is attending at his practice premises or at any clinic provided by him for his own patients, and of any time spent making a domiciliary visit; but
 - (b) no account shall be taken of time spent by the doctor holding himself in readiness to make a domiciliary visit if required by any patient.
- (8) An application by a doctor in relation to any place at which he is available shall not be approved by the Board unless it is satisfied that the place at which the doctor proposes to be available is likely to be convenient to his patients.
- (9) An application for approval pursuant to sub-paragraph (1) shall be made in writing to the Board and shall—
- (a) include the information specified in Part I of Schedule 8; and
 - (b) where appropriate, also include—
 - (i) in the case of a doctor to whom sub-paragraph (5) applies, the additional information specified in Part II of that Schedule;
 - (ii) in the case of a doctor to whom sub-paragraph (6) applies, the additional information specified in Part III of that Schedule.
- (10) The Board shall determine an application within 28 days of receiving it.
- (11) In determining any application, the Board shall either—
- (a) grant approval;
 - (b) grant approval subject to such conditions as the Board sees fit to impose for the purpose of securing that the doctor is available at such times and places as are convenient to his patients; or
 - (c) refuse approval.
- (12) The Board shall notify the doctor in writing of its determination, and, where it refuses an application or grants an application subject to conditions, it shall send the doctor a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (13).
- (13) A doctor may, within the period of 30 days beginning with and including the day on which the statement referred to in sub-paragraph (12) was received by him, appeal in writing to the Department against any refusal of approval or against any condition imposed pursuant to sub-paragraph (11).
- (14) The Department may, when determining an appeal, either confirm the determination of the Board or substitute its own determination for that of the Board.
- (15) The Department shall notify the doctor in writing of its determination and shall in every case include with the notification a written statement of the reasons for the determination.
- (16) The Board may require a doctor to inform his patients, by displaying a notice at his practice premises or by sending notices to them, about the times and places at which he is available.
- (17) A doctor may apply to the Board for a variation of the times and places at which, in accordance with a determination under this paragraph ("the earlier determination"), he is required to be normally available, and sub-paragraphs (2) to (15) shall apply to the making and determination ("the subsequent determination") of an application under this sub-paragraph as if it were the first application by that doctor for the purposes of this paragraph.
- (18) Where an application made under sub-paragraph (17) is granted or is granted subject to conditions, for the purposes of sub-paragraphs (1) and (16) the earlier determination mentioned in sub-paragraph (17) shall cease to have effect and the subsequent determination mentioned in that sub-paragraph shall have effect instead—

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- (a) where the subsequent determination is made by the Board and no appeal is made, from the day falling 8 weeks after the date on which the doctor receives notification of the Board's determination;
- (b) where the subsequent determination is made on appeal, from the day falling 8 weeks after the date on which the doctor receives notice of the determination of the appeal by the Department.

(19) Where it appears to the Board that a doctor's hours of availability are allocated for the purposes of sub-paragraph (2)(b) in a manner which may no longer be convenient to his patients, it may, subject to sub-paragraph (26), review the terms of—

- (a) any approval granted under sub-paragraph (11)(a) or (b); or
- (b) any direction given under sub-paragraph (21)(a).

(20) On any review under sub-paragraph (19) the Board shall—

- (a) give notice to the doctor of its proposed reallocation of his hours or availability; and
- (b) allow him 30 days, beginning with and including the day on which he receives that notice, within which to make representations to the Board about its proposals.

(21) After considering any representations made in accordance with sub-paragraph (20)(b), the Board shall either—

- (a) direct the doctor to revise the allocation of his hours of availability in the manner specified in the direction; or
- (b) confirm that the existing allocation of the doctor's hours of availability continues to be convenient to his patients.

(22) The Board shall notify the doctor in writing of its determination under sub-paragraph (21) and, where it gives a direction under head (a) of that sub-paragraph, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (23).

(23) A doctor may, within the period of 30 days beginning with and including the day on which the notice under sub-paragraph (22) was received by him, appeal in writing to the Department against a direction under sub-paragraph (21).

(24) Sub-paragraphs (14) and (15) shall apply to any appeal made under sub-paragraph (23).

(25) A doctor in respect of whom a direction is given under sub-paragraph (21)(a) shall revise the allocation of his hours of availability so as to give effect to the direction—

- (a) where the direction is given by the Board and no appeal is made, not less than 8 weeks after the date on which he receives notification under sub-paragraph (22); or
- (b) where the direction is given or confirmed on appeal, not later than 8 weeks after the date on which he receives notification of the determination of the appeal by the Department,

and the allocation of hours as so revised shall be regarded as having been approved for the purposes of sub-paragraphs (1) and (16).

(26) A Board shall not undertake a review under sub-paragraph (19) on more than one occasion in any period of 2 years.

Availability to patients outside normal hours

37.—(1) Subject to the provisions of this paragraph, a doctor may apply to the Board for approval to treat patients at premises other than his practice premises outside the hours for which he is normally available pursuant to paragraph 36 (in this paragraph referred to as "normal hours").

(2) An application under sub-paragraph (1) shall be made in writing and shall state the address of the premises in respect of which the application is made.

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(3) An application under sub-paragraph (1) shall not be approved by the Board unless it is satisfied that, having regard to—

- (i) the fact that the premises are for the treatment of patients outside normal hours; and
- (ii) all other relevant circumstances,

the premises to which the application relates are likely to be reasonably convenient to the doctor's patients.

(4) Sub-paragraphs (10) to (15) of paragraph 36 shall apply to an application under sub-paragraph (1) as they apply to an application under paragraph 36(1).

(5) Where the Board determines an application under sub-paragraph (1) by granting approval (with or without conditions), the doctor shall inform his patients by displaying a notice at his practice premises, stating the address of the premises for which approval has been granted.

(6) A doctor may apply to the Board for a variation of any approval granted under this paragraph, and such application shall be made and determined as if it were the first application for the purposes of this paragraph.

(7) Where it appears to the Board that premises which it has approved under this paragraph may no longer be reasonably convenient to the doctor's patients, it may give notice to the doctor that it proposes to review the terms of the approval.

(8) On any review under sub-paragraph (7), the Board shall allow the doctor a period of 30 days, beginning with and including the date on which he receives the notice, within which to make representations to the Board about its proposals.

(9) After considering any representations made in accordance with sub-paragraph (8), the Board may determine to—

- (a) continue its approval;
- (b) continue its approval subject to such new or varied conditions as it sees fit to impose; or
- (c) withdraw its approval.

(10) The Board shall notify the doctor in writing of its determination under sub-paragraph (9); and where it determines to withdraw its approval or to continue it subject to new or varied conditions, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (11).

(11) A doctor may, within the period of 30 days beginning with and including the date on which he receives the notice referred to in sub-paragraph (10), appeal in writing to the Department against the withdrawal of approval or against any condition imposed pursuant to sub-paragraph (9); and sub-paragraphs (14) and (15) of paragraph 36 shall apply to any such appeal as they apply to an appeal under that paragraph.

Doctors available for only 4 days a week

38.—(1) Subject to sub-paragraph (3), where the Board is satisfied that, by reason of a doctor's participation in health-related activities (other than the provision of general medical services to his patients), he would be likely to suffer an unreasonable degree of inconvenience if paragraph 36(2)(a)(iii) applied in his case, it may give its approval for the doctor normally to be available on only 4 days in any week referred to in sub-paragraph (2)(a) of that paragraph.

(2) For the purposes of sub-paragraph (1), "health-related activities" means activities connected with—

- (a) the organisation of the medical profession or the training of its members;
- (b) the provision of medical care or treatment;
- (c) the improvement of the quality of such care and treatment; or

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(d) the administration of services under Part II of the Order or of arrangements pursuant to Article 56 of the Order⁽⁶⁾ for the provision of general medical services, and, in determining whether any activity is a health-related activity, the Board shall have regard to the illustrative list in Part IV of Schedule 8.

(3) The Board shall not give its approval in accordance with sub-paragraph (1) if, in its opinion—

(a) the effectiveness of the doctor's services to his patients is likely to be significantly reduced; or

(b) his patients are likely to suffer significant inconvenience,

by reason of the doctor having been relieved from the requirements of paragraph 36(2)(a)(iii).

Practice area

39.—(1) Subject to sub-paragraph (3), a doctor may at any time with the consent of the Board alter the extent of his practice area.

(2) Where the Board refuses consent to the alteration of a practice area it shall notify the doctor in writing of such refusal and the doctor may, within the period of 30 days beginning with and including the day on which he receives such notification, appeal to the Department.

(3) The Department may, when determining an appeal, either confirm the decision of the Board or substitute its own decision for that of the Board.

(4) The Department shall notify the doctor in writing of its determination and shall in every case include with the notification a statement of the reasons for the determination.

(5) A doctor shall not open practice premises in any area or part of an area where, at the time of his application to open such premises, the Board is of the opinion that the number of medical practitioners undertaking to provide general medical services in that area or part of that area is already adequate.

Notification of change of place of residence

40. Where a doctor whose name is included in the medical list changes his place of residence, he shall notify the Board in writing of the change not later than 28 days after such change.

Records

41. A doctor shall—

(a) keep adequate records of the illnesses and treatment of his patients on forms supplied to him for the purpose by the Agency;

(b) permit a medical officer of the relevant Board to inspect medical records of patients and to provide him with any necessary information with regard to the entries therein as he may request for the purposes of ascertaining whether or not such records are properly kept;

(c) forward such records to the Agency or the relevant Board on request as soon as possible; and

(d) upon the termination in accordance with regulation 34(6) or (7) of arrangements between him and a woman for the provision of maternity medical services, forward to the relevant Board the medical records of the patient concerned; and

⁽⁶⁾ Article 56 was amended by Article 12 of S.I. 1978/1907 (N.I. 26), Article 5 of S.I. 1981/432, Article 7 of S.I. 1986/2229 (N.I. 24) and Article 29 of S.I. 1991/194 (N.I. 1)

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- (e) within 14 days of being informed by the Agency of the death of a person on his list and, in any other case of the death of such a person, not later than one month of learning of such a death, forward the records relating to that person to the Agency.

Certification

42.—(1) A doctor shall issue free of charge to a patient or his personal representatives, any medical certificate of a description mentioned in column 1 of Schedule 9, which is reasonably required under or for the purposes of the statutory provisions specified in column 2 of that Schedule, except where, for the condition to which the certificate relates, the patient—

- (a) is being attended by another doctor (other than a partner, assistant or other deputy of the first named doctor); or
- (b) is not being treated by, or under the supervision of, a doctor.

(2) The exception in sub-paragraph (1)(a) shall not apply where the certificate is issued pursuant to regulation 2(1) of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976⁽⁷⁾ (which provides for the issue of a certificate in the form of a special statement by a doctor on the basis of a written report by another doctor).

(3) Any certificate under sub-paragraph (1) for the purposes of the Social Security Contributions and Benefits (Northern Ireland) Act 1992⁽⁸⁾ or the Social Security Administration (Northern Ireland) Act 1992⁽⁹⁾ shall be issued in accordance with any Regulations made under either of those Acts.

Fees

43. A doctor shall not, otherwise than under or by virtue of these Regulations, demand or accept a fee or other remuneration for any treatment, including child health surveillance services, contraceptive services, maternity medical services and minor surgery services, whether under these terms of service or not, which he gives to a person for whose treatment he is responsible under paragraph 3, except—

- (a) from any statutory body for services rendered for the purpose of that body's statutory functions;
- (b) from any body, employer or school for a routine medical examination of persons for whose welfare the body, employer or school is responsible, or an examination of such persons for the purpose of advising the body, employer or school of any administrative action it might take;
- (c) for treatment which is not of a type usually provided by general practitioners and which is given—
- (i) in accommodation made available for private patients in accordance with Article 31 of the Order⁽¹⁰⁾; or
- (ii) in a registered nursing home which is not providing services under the Order, if, in either case, the doctor is serving on the staff of a hospital providing services under the Order as a specialist providing treatment of the kind the patient requires and if, within 7 days of giving the treatment, the doctor supplies the Agency, on a form provided by it for the purpose, with such information about the treatment as it may require;

⁽⁷⁾ S.R. 1976 No. 175; regulation 2 is amended by S.R. 1982 No. 153, S.R. 1987 No. 117, S.R. 1992 No. 83, S.R. 1994 No. 468 and S.R. 1995 No. 149

⁽⁸⁾ 1992 c. 7

⁽⁹⁾ 1992 c. 8

⁽¹⁰⁾ Article 31 was substituted by Article 3(9) of S.I. 1966/2249 (N.I. 24)

- (d) from a dentist for the administration of an anaesthetic required for the purposes of dental treatment;
- (e) when he treats a patient under paragraph 3(3), in which case he shall be entitled to demand and accept a reasonable fee (recoverable in certain circumstances under paragraph 44) for any treatment given, if he gives the patient a receipt on a form supplied by the Agency;
- (f) for attending and examining (but not otherwise treating) a patient at his request at a police station in connection with proceedings that the police are minded to bring against that patient;
- (g) for treatment consisting of an immunisation for which no remuneration is payable by the Agency in pursuance of the Statement made under regulation 37 and which is requested in connection with travel abroad;
- (h) for circumcising a patient for whom such an operation is requested on religious grounds and is not needed on any medical ground;
- (i) for prescribing or providing drugs which a patient requires to have in his possession solely in anticipation of the onset of an ailment while he is outside the United Kingdom but for which he is not requiring treatment when the medicine is prescribed;
- (j) for a medical examination, under Article 23(2)(c) of the Road Traffic (Seat Belts) (Northern Ireland) Order 1995(11), to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt;
- (k) where the person is not one to whom any of sub-paragraphs (a), (b) or (c) of Article 62(1)(12) of the Order applies (including by reason of Regulations under Article 62(6)(13)), for testing the sight of that person;
- (l) where he is a doctor who is required by a Board under regulation 12 of the Pharmaceutical Regulations to provide drugs, medicines or appliances to a patient and provides for that patient, otherwise than under pharmaceutical services, any Scheduled drug;
- (m) pursuant to an arrangement with him for the provision of services in accordance with regulation 20 of the Health and Personal Social Services (Fund-holding Practices) Regulations (Northern Ireland) 1993(14);
- (n) for prescribing or providing drugs for malaria chemoprophylaxis;
- (o) from a partner or assistant in respect of the provision of an anaesthetic to a patient of the partner or assistant.

44.—(1) Where a person from whom a doctor received a fee under paragraph 43(e) applies to the Agency for a refund within 14 days of payment of the fee (or such longer period, not exceeding one month, as the Agency may allow if it is satisfied that the failure to apply within 14 days was reasonable) and the Agency is satisfied that the person was on the doctor's list when the treatment was given, the Agency may recover the amount of the fee from the doctor, by deduction from his remuneration or otherwise, and shall pay that amount to the person who paid the fee.

(2) Where a doctor has supplied any drug or appliance in respect of which, in the case of a person on his list, he would have been entitled to payment, the Agency shall credit him with the appropriate amount.

45. Subject to sub-paragraphs (f), (j) and (o) of paragraph 43, a doctor shall not demand or accept a fee or other remuneration from a patient of his for any prescription for any drug or appliance.

(11) S.I. 1995/2994 (N.I. 18)

(12) Article 62(1) was amended by Article 3 of S.I. 1984/1158 (N.I. 8) and Article 8(1) of S.I. 1988/2249 (N.I. 24)

(13) Paragraph (6) of Article 62 was inserted by Article 8(2) of S.I. 1988/2249 (N.I. 24)

(14) S.R. 1993 No. 142 as amended by S.R. 1996 No. 131 and S.R. 1997 No. 184

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46. A doctor shall not, without reasonable excuse, demand or accept from a Board or the Agency any fee or other remuneration to which he is not entitled under these Regulations, the Statement published under regulation 37 or the Drug Tariff.

47. A doctor shall take all practicable steps to ensure that any partner, deputy or assistant of his, whether or not the partner, deputy or assistant is providing general medical services, shall not demand or accept any fee or other remuneration for treatment given to the doctor's patients, or for any prescription for any supply of any drug or appliance for the doctor's patients, unless the partner, deputy or assistant would have been entitled to demand or accept such fee or other remuneration if the patient had been on his own list.

Prescribing

48.—(1) Subject to paragraph 49, a doctor shall order any drugs or appliances which are needed for the treatment of any patient to whom he is providing treatment under these terms of service by issuing to that patient a prescription form, and such a form shall not be used in any other circumstances.

(2) In issuing any prescription form under paragraph (1) the doctor shall himself sign the form in ink with his initials, or forenames, and surname in his own handwriting and not by means of a stamp, and shall so sign only after particulars of the order have been inserted in the form, and—

- (a) the prescription shall not refer to any previous prescription; and
- (b) a separate prescription form shall be used for each patient, except where a special arrangement has been made in accordance with regulation 5 of the Pharmaceutical Regulations.

(3) Where a doctor orders drugs specified in Schedule 2 to the Misuse of Drugs Regulations (Northern Ireland) 1986⁽¹⁵⁾ (controlled drugs to which regulations 14, 15, 16, 18, 19, 20, 21, 23, 25 and 26 of those Regulations apply) for supply by instalments for treating addiction to any drug specified in that Schedule, he shall—

- (a) use only the prescription form provided by the Agency specially for the purposes of supply by instalments;
- (b) specify the number of instalments to be dispensed and the interval between each instalment; and
- (c) order only such quantity of the drug as will provide treatment for a period not exceeding 14 days.

(4) The form referred to in head (a) of sub-paragraph (3) shall not be used for any purpose other than ordering drugs in accordance with that sub-paragraph.

(5) In a case of urgency, a doctor may request a chemist to dispense a drug or an appliance before a prescription form is issued, only if—

- (a) that drug is not a Scheduled drug;
- (b) that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971⁽¹⁶⁾ other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations (Northern Ireland) 1986; and
- (c) the doctor undertakes to furnish the chemist, within 72 hours, with a prescription form completed in accordance with sub-paragraph (2).

49.—(1) In the course of treating a patient to whom he is providing treatment under these terms of service, a doctor shall not order on a prescription form a drug or other substance specified in

⁽¹⁵⁾ S.R. 1986 No. 52; the relevant amending Regulations are S.R. 1987 No. 68 and S.R. 1988 No. 206

⁽¹⁶⁾ 1971 c. 38

Schedule 10 but may otherwise prescribe such a drug or other substance for that patient in the course of treatment.

(2) In the course of treating such a patient a doctor shall not order on a prescription form a drug specified in an entry in column 1 of Schedule 11 unless—

- (a) that patient is a person of a description mentioned in column 2 of that Schedule opposite that entry;
- (b) that drug is prescribed for that patient only for the purpose specified in column 3 of that Schedule opposite that entry; and
- (c) the doctor endorses the face of the form with the reference “S.11”,

but may otherwise prescribe such a drug for that patient in the course of that treatment.

50. For the purposes of paragraphs 48 and 49 in their application to a doctor who has undertaken to provide contraceptive services, “drugs” includes contraceptive substances and “appliances” includes contraceptive appliances.

Practice leaflet

51.—(1) Subject to paragraph (2), a doctor whose name is included in the medical list shall compile, in relation to his practice, a document (in this paragraph called a “practice leaflet”) which shall include the information specified in Schedule 12.

(2) Sub-paragraph (1) shall, in relation to a restricted doctor, apply only to the extent that the Board sees fit.

(3) A doctor shall review his practice leaflet at least once in every period of 12 months, and shall make any amendments necessary to maintain its accuracy.

(4) A doctor shall make available a copy of the most recent edition of his practice leaflet to the Board, the Agency, to each patient on his list and to any other person who, in the doctor’s opinion, reasonably requires one.

(5) A doctor who practises in partnership with other doctors whose names are included in the medical list, shall satisfy the requirements of this paragraph if he makes available a practice leaflet, compiled in accordance with sub-paragraph (1) and, where appropriate, amended in accordance with sub-paragraph (3), which relates to the partnership as a whole; and in such a case a doctor may, if he so wishes, also produce a practice leaflet relating to his own activities.

Complaints

52.—(1) Subject to sub-paragraph (2), a doctor shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 53 referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The practice based complaints procedure to be established by a doctor may also deal with complaints made in relation to one or more other doctors in the practice.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the doctor’s provision of general medical services and within the responsibility or control of—

- (a) the doctor;
- (b) any other doctor either employed by him or engaged as his deputy;
- (c) a former partner of the doctor;
- (d) an employee of the doctor other than one falling within head (b),

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and in this paragraph and paragraph 53, references to complaints are to complaints falling within this sub-paragraph.

- (4) A complaint may be made on behalf of a patient or former patient with his consent, or—
- (a) where the patient is a child—
 - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child; or
 - (ii) where the child is in the care of an authority to whose care he has been committed under the provisions of the Children (Northern Ireland) Order 1995(17), by a person duly authorised by that authority; or
 - (iii) where the child is in the care of a voluntary organisation, by that organisation or a person duly authorised by it; or
 - (iv) where the child is in a training school, by the manager of that training school; or
 - (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.
- (5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in head (a)(ii), (iii) or (iv) of sub-paragraph (4), by that authority, or voluntary organisation, or the manager of the training school.
- (6) A practice based complaints procedure shall comply with the following requirements—
- (a) the doctor shall specify a person (who need not be connected with the practice and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
 - (b) all complaints shall be—
 - (i) recorded in writing;
 - (ii) acknowledged, either orally or in writing, within the period of 3 days (excluding Saturdays, Sundays, and Bank and Public Holidays) beginning with and including the day on which the complaint was made or, where that is not possible, as soon as reasonably practicable; and
 - (iii) properly investigated;
 - (c) within the period of 10 days (excluding Saturdays, Sundays, and Bank and Public Holidays) beginning with and including the day on which the complaint was received by the person specified under head (a) or, where that is not possible, as soon as reasonably practicable, the complainant shall be given a written summary of the investigation and its conclusions;
 - (d) where the investigation of the complaint requires consideration of the patient's medical records, the person specified under head (a) shall inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the doctor or a partner, a deputy or an employee of the doctor; and
 - (e) the doctor shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' medical records.
- (7) A doctor shall inform his patients about the practice based complaints procedure which he operates and the name (or title) of the person specified under sub-paragraph (6)(a).

53.—(1) A doctor shall co-operate with any investigation of a complaint by the Board in accordance with the procedures which it operates in accordance with directions given under Article

(17) S.I. 1995/755 (N.I. 2)

17(1) of the Order, whether the investigation follows a complaint under the practice based complaints procedure or not.

- (2) The co-operation required by sub-paragraph (1) includes—
- (a) answering questions reasonably put to the doctor by the Board;
 - (b) providing any information relating to the complaint reasonably required by the Board; and
 - (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and of which due notice has been given), if the doctor's presence at the meeting is reasonably required by the Board.

Reports to medical officer of the Department

54. A doctor shall—
- (a) supply in writing to a medical officer of the Department within such reasonable period as that officer may specify, any relevant clinical information which he requests about a patient to whom the doctor under these terms of service has issued or has refused to issue a medical certificate;
 - (b) answer any inquiries by a medical officer of the Department about a medical certificate issued by the doctor under these terms of service or about any statement which the doctor has made in a report under these terms of service.

Inquiries about prescriptions and referrals

55.—(1) A doctor whose name is included in the medical list shall, subject to sub-paragraphs (2) and (3), sufficiently answer any inquiries, whether oral or in writing, from the Board concerning—

- (a) any prescription form issued by the doctor under these terms of service;
- (b) the considerations by reference to which the doctor issues such forms under these terms of service;
- (c) the referral by the doctor under these terms of service of any patient to any other services provided under the Order; and
- (d) the considerations by reference to which the doctor refers patients to any such services.

(2) An inquiry referred to in sub-paragraph (1) may be made only for the purpose either of obtaining information to assist the Board to discharge its functions or of assisting the doctor in the discharge of his obligations under these terms of service.

(3) A doctor shall not be obliged to answer any inquiry referred to in sub-paragraph (1) unless it is made by a doctor appointed under regulation 42 who produces, on request, written evidence that he is authorised by the Board to make such an inquiry on behalf of the Board.

Annual reports

56.—(1) A doctor whose name is included in the medical list shall provide annually to the Board a report, in accordance with this paragraph, relating to the provision by him of personal medical services (in this paragraph called an "annual report").

- (2) An annual report shall contain—
- (a) the information specified in paragraphs 1 and 2 of Schedule 13;
 - (b) where the Board, having considered whether the information is available to it from another source and having consulted the Local Medical Committee, so requests, the information specified in paragraph 3 of Schedule 13; and

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- (c) where the Board so requests, in the case of a doctor who is not already supplying that information to the Board in order to qualify for payments in respect of disease management, the information specified in paragraph 4 of Schedule 13.
- (3) Each annual report shall be compiled in respect of the period of 12 months ending on the 31st March of the year in which it is provided and shall be sent to the Board by 30th June of that year.
- (4) In the case of a doctor who practises in partnership with other doctors whose names are included in the medical list, the information referred to in sub-paragraph (2) may alternatively be provided in the form of an annual report in respect of the partnership as a whole instead of by each doctor in the partnership individually and in such a case a doctor may, if he so wishes, also produce his own annual report.
- (5) Where the Board requires that the information referred to in sub-paragraph (2) be provided on a form supplied by the Board, the doctor shall use that form.
- (6) The Board shall not disclose any annual report to any person, unless otherwise lawfully empowered to do so.

Incorporation of provisions of regulations etc.

57.—(1) Any provision of the following affecting the rights and obligations of doctors shall be deemed to form part of the terms of service—

- (a) the Order;
- (b) these Regulations;
- (c) the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997(18);
- (d) the Disciplinary Procedures Regulations insofar as they relate to—
 - (i) the investigation of questions arising between doctors and their patients and other investigations to be made by the Disciplinary Committee and the action which may be taken by the Board as a result of such investigations;
 - (ii) appeals to the Department from decisions of the Board or the Agency;
 - (iii) the investigation of cases of alleged excessive prescribing;
 - (iv) the investigation of certification;
 - (v) the investigation of record keeping;
 - (vi) decisions as to treatment for which fees may be charged.
- (2) Where in accordance with regulation 31(3) any restrictions have been imposed with regard to the inclusion of a doctor's name on the obstetric list, such restrictions shall be deemed to form part of his terms of service.