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 STATUTORY INSTRUMENTS
 

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## 1985 No. 1053

## NATIONAL HEALTH SERVICE, ENGLAND AND WALES

**The National Health Service (General Medical and  
Pharmaceutical Services) Amendment (No. 5) Regulations 1985**

<i>Made</i> - - - -	9th July 1985
<i>Laid before Parliament</i>	10th July 1985
<i>Coming into Operation</i>	
<i>Regulations 1, 2, 4 and 5(1)</i>	1st August 1985
<i>Remainder</i>	1st December 1985

The Secretary of State for Social Services, in exercise of the powers conferred by sections 29, 41 and 42 of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 5) Regulations 1985.

(2) Regulations 1, 2, 4 and 5(1) of these regulations shall come into operation on 1st August 1985 and the remainder of these regulations shall come into operation on 1st December 1985.

(3) In these regulations “the principal regulations” means the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974(b).

*Miscellaneous amendments to the principal regulations*

2.—(1) The principal regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 5 (removal from the medical list)—

(a) in paragraph (1)—

(i) for sub-paragraph (c) there shall be substituted the following sub-paragraph:—

“(c) is the subject of a direction given by the Professional Conduct Committee of the General Medical Council under section 36 of the Medical Act 1983(c) that his name be erased from the register or that his registration in the register be suspended or of an order made by that

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(a) 1977 c.49; section 29 was amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), sections 1, 2 and 7 and Schedule 1, paragraphs 42 and 93 and the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14 and Schedule 6; section 41 was amended by the 1980 Act, sections 1 and 21(1) and Schedule 1, paragraph 54; section 42 was amended by the 1980 Act, sections 1 and 21(1) and Schedule 1, paragraph 54; and sections 29, 41 and 42 were modified by S.I. 1985/39.

(b) S.I. 1974/160; the relevant amending instruments are S.I. 1975/719, 1976/1407, 1982/1283.

(c) 1983 c.54.

- Committee under section 38(1) of that Act (immediate suspension),”;
- (ii) after the words “such direction” there shall be inserted the words “or such order”;
- (b) in paragraph (2) for the words from “has not during” to the end there are substituted the words “has not during that period provided any general medical services personally, the Committee may remove the doctor’s name from the medical list”;
- (c) after paragraph (2) there shall be inserted the following paragraph:—
- “(2A) For the purpose of calculating the period of six months referred to in paragraph (2) in relation to a doctor there shall be disregarded any period during which he provided no general medical services by reason only that his registration in the register of medical practitioners was suspended as mentioned in section 29(8) of the National Health Service Act 1977 (a) (suspension by Health Committee or by interim order of Preliminary Proceedings Committee).”.
- (3) In regulation 18 (change of doctor)—
- (a) in paragraph (4), for the words from “give to the persons” to the end there shall be substituted the words “notify the persons on the list of that doctor of the death, removal or withdrawal.”;
- (b) for paragraphs (6) and (7) there shall be substituted the following paragraphs:—
- “(6) Where a successor is, or successors are, appointed to a practice the Committee shall by notice in writing inform the persons on the list of the doctor who last carried on that practice of the names and addresses of the successor or successors and of any partners.
- (6A) The notice mentioned in paragraph (6) shall state that the person to whom it is given is deemed, from the date specified in the notice, to be on the list of a named successor, unless that person within 14 days of that date gives notice in writing to the Committee that he does not wish to be included in the list of that successor.
- (7) Where no successor is to be appointed to a practice, the Committee shall notify the persons on the list of the doctor who last carried on that practice of their right to apply to another doctor on the medical list for acceptance.”;
- (c) after paragraph (9) there shall be inserted the following paragraph—
- “(10) Nothing in this regulation shall require the Committee to give any notice of or concerning the making or termination of arrangements under regulation 19.”.
- (4) In regulation 33 (claims and overpayments), for paragraph (2) there shall be substituted the following paragraph:—
- “(2) Where the Committee considers that a payment has been made to a doctor or chemist owing to an error or in circumstances when it was not due the Committee, except to the extent that the Secretary of State on the application of the Committee

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(a) 1977 c.49; section 29(8) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 14 and Schedule 6, paragraph 2(2).

directs otherwise, shall draw that overpayment to the attention of the doctor or chemist and—

- (a) where the overpayment is admitted by him; or
- (b) where the overpayment is not so admitted but, the matter having been referred under regulation 6(6)(a) of the National Health Service (Service Committees and Tribunal) Regulations 1974 (a) for investigation, the Committee, or the Secretary of State on appeal, decides that there has been an overpayment,

the amount overpaid shall be recoverable either by deduction from the remuneration of the doctor or chemist or in some other manner.”.

(5) In Schedule 1 (terms of service for doctors)—

(a) in paragraph 4(1) (a doctor’s patients), for sub-paragraph (h)(iii) to the end of sub-paragraph (h) there shall be substituted the following:—

“(iii) he is available to provide such treatment,

or any persons to whom he may be requested, and he agrees, to give treatment which is immediately required owing to an accident or other emergency at any place in the locality of any Committee on whose medical list he is included, provided, in either case, that there is no doctor who, at the time of the request, is under an obligation otherwise than under this sub-paragraph 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;”;

(b) in paragraph 16(2) (personal treatment), after the words “give treatment personally” there shall be inserted the words “to a patient”.

(6) In Schedule 3 (list of prescribed medical certificates), after paragraph 12 there shall be added—

(a) in column 1, the following paragraph—

“13. To support application for certificates conferring exemption from charges in respect of drugs, medicines and appliances.”;

(b) in column 2 opposite item 13 in column 1, the words “National Health Service Act 1977 (c.49)”.

#### *Temporary provision of general medical services*

3.—(1) The principal regulations shall be further amended in accordance with the following paragraphs of this regulation.

(2) In regulation 4 (medical list)—

(a) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) The Committee shall prepare a list, to be called the medical list, of doctors—

(a) entitled to be included on the list pursuant to regulation 7 and Part III of these regulations;

(b) for the time being appointed under regulation 19.

(2) The medical list shall, in respect of any doctor whose name is included on it, indicate—

(a) if he is on the obstetric list and if he has undertaken to provide either general medical services including maternity medical

(a) S.I. 1974/455.

services or general medical services limited to maternity medical services;

- (b) except in the case of a doctor who has requested otherwise, if he has undertaken to provide contraceptive services, and shall distinguish between a doctor who has so undertaken in respect only of patients for whom he or his partners have also undertaken other personal medical services and a doctor who has so undertaken without such restriction;
- (c) if he has been relieved of the responsibility of providing services during certain periods under paragraph 15(2) of the terms of service and the name of the doctor with whom the Committee has made arrangements for the provision of services during such periods;
- (d) if he is included on the medical list by virtue of his appointment under regulation 19.”.

(3) In regulation 7 (application for inclusion on the medical list or to succeed to a vacancy), for paragraph (4) there shall be substituted the following paragraph—

“(4) In this regulation ‘practice declared vacant’ means a practice which has been rendered vacant by the death of a doctor on, or the withdrawal or removal of a doctor from, the medical list, where that doctor was included on that list by virtue of regulation 4(1)(a), and as respects which practice the Medical Practices Committee or the Committee authorised in that behalf by the Medical Practices Committee has resolved that a doctor is required to fill the vacancy.”.

(4) In regulation 9 (reports by the Committee), in paragraph (2) after the words “the medical list,” there shall be inserted the words “and except where that doctor is in relation to that practice a doctor appointed under regulation 19.”.

(5) For regulation 19 (temporary arrangements for practice on retirement, death, etc) there shall be substituted the following regulation:—

*“Temporary provision of general medical services*

**19.—**(1) The provisions of this regulation shall apply in relation to the making of arrangements for the temporary provision of general medical services.

(2) Where a doctor ceases to be included on the medical list or his registration in the register is suspended as mentioned in section 29(8) of the National Health Service Act 1977, the Committee, after consultation with the Local Medical Committee, may—

- (a) make arrangements for the temporary provision of general medical services for that doctor’s patients, which arrangements may consist of or include the appointment of one or more doctors to undertake the treatment of such persons;
- (b) where a doctor included on a medical list by virtue of regulation 4(1)(a) ceases by reason of death to be so included and within 7 days of the date of death any person applies to the Committee in writing on behalf of the estate of that doctor for the appointment of one or more named doctors, appoint one or more of the named doctors to undertake the treatment of the deceased doctor’s patients.

(3) The Committee may make such arrangements as it thinks fit for the accommodation and other needs of any doctor appointed under paragraph (2) and, in the case of any doctor appointed under paragraph (2)(b), shall where practicable first consult any person who applied to it for the appointment of that doctor.

(4) Subject to paragraph (10), arrangements under paragraph (2) shall subsist for such period as the Committee may determine, but not beyond the date on which the vacancy is filled or the suspension referred to in paragraph (2) ceases to have effect.

(5) Where it appears to a Committee, after consultation with the Local Medical Committee, that a doctor is incapable of carrying out adequately his obligations under the terms of service because of his physical or mental condition, it may require him to be medically examined.

(6) Where a Committee is satisfied—

(a) after receiving from the Local Medical Committee a report under paragraph (9) that because of his physical or mental condition; or

(b) that because of continued absence,

a doctor's obligations under the terms of service are not being carried out adequately, it may, after consultation with the Local Medical Committee and with the consent of the Secretary of State, make arrangements for the temporary provision of general medical services for that doctor's patients, which arrangements may consist of or include the appointment of one or more doctors to undertake the treatment of such persons.

(7) Subject to paragraph (10), arrangements under paragraph (6) shall subsist for such period as the Committee may determine, but not, in a case to which paragraph (6)(a) applies, beyond the date on which the Committee is satisfied, after consulting the Local Medical Committee, that the doctor is fit to resume his practice.

(8) A Committee may, before varying or terminating any arrangements made under paragraph (6) but after consulting the Local Medical Committee, require the doctor to be medically examined.

(9) A doctor required under this regulation to be medically examined shall submit himself for medical examination by a doctor appointed by the Local Medical Committee, which having considered the report of the examining doctor shall make a report in writing to the Committee as to the doctor's fitness to carry out his obligations under the terms of service.

(10) Where a Committee proposes that the arrangements under paragraph (2) or (6) shall continue for longer than one year or such shorter period as the Secretary of State may specify in any particular case, or beyond any further such period, it shall so notify the Secretary of State in writing not less than one month, or as soon as is practicable, before the expiry of that period or further period, and shall in each case obtain the consent of the Secretary of State to the continuance of the arrangements.

(11) The Committee shall give reasonable notice in writing of the termination of arrangements under paragraph (2) or (6) to the doctor with whom they were made and shall, as soon as it is practicable, notify the Secretary of State in writing that such termination has taken place.

(12) A Committee shall, where practicable, notify in writing any doctor for the treatment of whose patients arrangements are made under this regulation of such arrangements and of their variation or termination.

(13) Each doctor appointed under this regulation shall agree in writing to be bound throughout his appointment by the terms of service which were applicable to the doctor the treatment of whose patients he is appointed with or without other doctors to undertake, save that nothing in these paragraphs shall require him to provide maternity medical services or contraceptive services which he has not undertaken to provide.

(14) Any person on the list of the doctor for the treatment of whose patients arrangements are made under this regulation shall be deemed to remain on that list while those arrangements subsist, unless that person is transferred to the list of another doctor, and any person who applies to the doctor appointed under this regulation for acceptance shall, if accepted, be recorded by the Committee as being—

- (a) where that doctor is included on the medical list by virtue of regulation 4(1)(a), on his list;
- (b) in any other case, on the list of the doctor for the treatment of whose patients arrangements are made under this regulation.

(15) The Committee may deduct from the remuneration of a doctor for the treatment of whose patients arrangements are made under paragraph (6) or consequent upon the suspension of whose registration arrangements are made under paragraph (2)(a) the cost, in part or in whole, of any such arrangements, and in the case of a doctor performing relevant service in an emergency recognised by the Secretary of State for the purpose of these regulations, the Committee shall deduct from his remuneration the cost of any such arrangements.

(16) in the National Health Service Act 1977—

- (a) In its application to the temporary provision of general medical services, section 29(4) (which prohibits, with exceptions, payments of a fixed salary) shall have effect as if the words ‘otherwise than the temporarily’ were inserted after the words ‘general medical services’ in that subsection;
- (b) section 30(1A) (a) (which contains requirements as to knowledge of English) shall apply to a doctor appointed under regulation 19, and in respect of any such doctor section 30(1A) shall have effect as if for the words from ‘shall be entitled’ to ‘referred to the Medical Practices Committee’ in that subsection there were substituted the words ‘shall be appointed to provide general medical services temporarily’ ”.

(6) In regulation 24(1) (payment to doctors)—

- (a) for the words “doctors providing general medical services” in each place where they appear there shall be substituted the words “doctors with whom arrangements for the provision of general medical services exist”;
- (b) after sub-paragraph (j)(b) there shall be added the following sub-paragraph—
  - “(k) payments in relation to the making of arrangements for, and payments for, the temporary provision of general medical services;”.

(a) Section 30(1A) was inserted by paragraph 4 of Schedule 3 to the Health and Social Security Act 1984 (c.48).

(b) See S.I. 1975/719, regulation 3(9).

*Transitional provisions*

4. Nothing in these regulations shall—

- (a) apply in respect of or affect the validity of any application, arrangements or appointment made or procedure commenced or thing done or rights acquired or obligations or liabilities incurred in connection with the temporary provision of general medical services prior to the coming into operation of these regulations;
- (b) apply in respect of, or affect the institution, continuance or enforcement of, any investigation, proceedings or remedy relating to the matters referred to in paragraph (a) above.

*Revocations*

5.—(1) Regulation 2(4) of the National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1982 (a) (which amended paragraphs (6) and (7) of regulation 18 of the principal regulations) is hereby revoked.

(2) Regulation 3(2) of the National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1975 (b) (which amended regulation 4 of the principal regulations) and regulations 4(3) and 34 of, and paragraphs 40 to 43 of Schedule 1 to, the principal regulations are hereby revoked.

Signed by authority of the Secretary of State for Social Services.

*John Patten,*  
Parliamentary Under-Secretary of  
State,  
Department of Health and Social  
Security.

9th July 1985.

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(a) S.I. 1982/1283.

(b) S.I. 1975/719.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations amend the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974 ("the principal regulations"), regulating the terms upon which doctors and chemists provide those services under the National Health Service Act 1977.

Regulation 2 makes miscellaneous amendments. Regulation 5 of the principal regulations, whereby a Family Practitioner Committee ("the Committee") can remove the name of a doctor from the medical list, is amended so as to apply to a doctor whose name has been erased from the register or whose registration has been suspended, but not the name of a doctor whose registration has suspended for health reasons or by an interim order. Amendments are made to regulation 18 of the principal regulations so as to require a Committee to notify patients on a change of doctor. Regulation 33 of the principal regulations, which relates to overpayments to doctors and chemists, is amended so as to enable a Committee to apply to the Secretary of State for directions as to recovery. The doctors terms of service are amended in particular so as to cover emergency treatment of persons in a Committee's locality and to require medical certificates to be given for exemption certificates.

Regulation 3 relates to arrangements for the temporary provision of general medical services. Regulation 3(4) replaces the provisions of regulation 19 of, and provisions about temporary arrangements in Schedule 1 to, the principal regulations by a new regulation 19. This prescribes the circumstances in which arrangements may be made and the requirements which must be met. The new regulation 19 also contains new provisions about notification to, and obtaining the consent of, the Secretary of State, and about medical reports in cases formerly within paragraphs 40 to 43 of Schedule 1 to the principal regulations. Consequential amendments are made to provisions in the principal regulations concerning the medical list, practice vacancies and payments.

Regulation 4 contains transitional provisions and regulation 5 revocations.

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