

STATUTORY INSTRUMENTS

1985 No. 1625 (S. 125)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (General Medical and
Pharmaceutical Services) (Scotland) Amendment (No. 4)
Regulations 1985**

<i>Made</i>	- - - -	<i>24th October 1985</i>
<i>Laid before Parliament</i>		<i>8th November 1985</i>
<i>Coming into Operation</i>		<i>1st December 1985</i>

In exercise of the powers conferred upon me by sections 19 and 108(1) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Amendment (No. 4) Regulations 1985 and shall come into operation on 1st December 1985.

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

Amendment of Part II of the principal regulations

2.—(1) In regulation 4 of the principal regulations (medical list) for paragraphs (1) to (3)(c) there shall be substituted the following paragraphs—

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

- (a) entitled to be included in the medical list pursuant to regulations 6 and 13 of these regulations;
- (b) appointed under regulation 20, who in respect of their appointment shall be included in the medical list only for the duration of such appointment.

(a) 1978 c.29; section 19 was amended by the Health Services Act 1980 (c.53), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 2, and the Medical Act 1983 (c.54), Schedule 5, paragraph 17(a).

(b) S.I. 1974/506; relevant amending instruments are S.I. 1975/696, 1976/1574, 1981/56, 1982/1279.

(c) Paragraph (1A) was inserted by and paragraph (2) amended by S.I. 1975/696; and both said paragraphs were amended by S.I. 1982/1279.

(2) A doctor shall be included in the medical list for the purpose of undertaking to provide general medical services which comprise—

- (a) general medical services other than maternity medical services or contraceptive services, or
- (b) general medical services including either maternity medical services or contraceptive services or both maternity medical services and contraceptive services, or
- (c) general medical services limited to maternity medical services only or maternity medical services and contraceptive services only,

and, if the doctor so requests, the provision by him of contraceptive services may be restricted to patients to whom either he or both he and any partner of his have undertaken to provide other general medical services.

(3) The medical list shall, in respect of the doctors whose names are included therein, by marks or otherwise, indicate—

- (a) which of them have undertaken to provide general medical services including maternity services or general medical services limited to maternity medical services;
- (b) which of them have undertaken to provide contraceptive services, distinguishing between those doctors who have so undertaken in respect only of patients to whom either they or both they and any partner of theirs provide other general medical services and those doctors who have so undertaken without such restriction: Provided that if a doctor has undertaken to provide contraceptive services with such restriction the medical list shall, if the doctor so requests, omit any such indication or distinction;
- (c) which of them have under paragraph 11(2) of the terms of service been relieved of the responsibility of providing the services referred to in paragraph 9 of the said terms at certain times, and against those doctors' names, the doctors with whom the Board have made arrangements for the provision of the said services at such times;
- (d) which of them are included on the medical list only by virtue of their appointment under regulation 20.”.

(2) In regulation 5 of the principal regulations (removal from medical list)

- (a) for paragraph (1) there shall be substituted the following paragraphs—

“(1) Where the Board, with a view to securing that arrangements are such that all persons in the area who avail themselves of general medical services receive adequate personal care and attendance, have determined in accordance with the provisions of this regulation that a doctor whose name is included in the medical list has for the preceding six months not provided general medical services personally for persons in the area, the Board may, after giving the doctor 28 days' notice of their intention to do so, remove his name from such list unless the Secretary of State directs to the contrary as hereinafter provided.

(1A) If in the case of a doctor whose name is included in the medical list where—

- (a) the Board have determined that he has not for the preceding six

months provided general medical services personally for persons in the area,

and

- (b) he is a doctor to whom section 19(7) (which deals with suspension of the registration of a doctor) of the National Health Service (Scotland) Act 1978 (a) applies

the Board are satisfied that there is a substantial risk that the existing arrangements for the provision of general medical services including their temporary provision may not result in all persons in the area continuing to receive adequate personal care and attendance, they may after giving the doctor 28 days' notice of their intention to do so, remove his name from the medical list unless the Secretary of State directs to the contrary as hereinafter provided.”;

- (b) in paragraph (2) for the words “the last preceding paragraph” there shall be inserted the words “paragraph (1) or (1A)”;
- (c) in paragraph (3) for the words “of this regulation” there shall be inserted the words “or (1A)”.

(3) In regulation 7 (2) of the principal regulations (reports by Board to Medical Practices Committee) for the words from “otherwise than in the case” to “of these regulations” there shall be substituted the words “otherwise than in a case where the doctor has given notice of desire to exchange his practice under regulation 9 of these regulations or the doctor is in relation to the practice a doctor appointed under regulation 20”.

(4) In regulation 8 of the principal regulations (succession to vacant medical practices) for paragraph (6) there shall be substituted the following paragraph:—

- “(6) The provisions of this regulation shall not apply in a case where—
- (a) the doctor has given notice of desire to exchange his practice under regulation 9 of these regulations, or
- (b) the doctor is in relation to the practice a doctor appointed under regulation 20.”.

Amendment of Part IV of the principal regulations

3.—(1) In regulation 18 of the principal regulations (change of doctor)—

- (a) for paragraph (3) there shall be substituted the following paragraph:—

“(3) Where a doctor whose name is included in the medical list dies or has his name withdrawn or removed from that list, the Board shall as soon as is practicable make known the fact by individual notices sent to persons, other than to those women who had been accepted by him for the provision of contraceptive services only, on the list of the doctor.”;

- (b) in paragraph (4) there shall be inserted after the words “who last carried on that practice” the words “other than to those women who

(a) Section 19(7) was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 7, paragraph 2.

had been accepted by him for the provision of contraceptive services only”;

(c) for paragraph (4A)(a) there shall be substituted the following paragraph:—

“(4A) Where a woman who has been deemed to be included in the list of a successor in accordance with paragraph (4) had also been accepted by the doctor who last carried on the practice for the provision to her of contraceptive services under regulation 26A, and that successor is willing to accept the woman concerned for the provision to her of contraceptive services to at least the same extent as the doctor who last carried on the practice, then she will be deemed from the date given in the notice sent to her under paragraph (4) to be accepted by that successor for the provision of contraceptive services to the like extent to which and for the remainder of the period for which she had previously been accepted.”;

(d) after paragraph (4A) there shall be inserted the following paragraph:—

“(4B) Where no successor is to be appointed to a practice, the Board shall give to the persons on the list of the doctor who last carried on that practice, other than to those women who had been accepted by him for the provision of contraceptive services only, notice of their right to apply to another doctor on the medical list for acceptance.”;

(e) After paragraph (6) there shall be inserted the following paragraph:—

“(7) Nothing in this regulation shall require the Board to give any notice of or concerning the making, variation or termination of arrangements under regulation 20.”.

(2) For regulation 20 (temporary arrangements for practice on retirement, death, etc) there shall be substituted the following regulation:—

“Temporary provision of general medical services

20.—(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 dies, retires or otherwise ceases to be entitled to be included in the medical list or where his registration is suspended in any of the circumstances specified in section 19(7) of the National Health Service (Scotland) Act 1978, the Board, after consultation with the Area Medical Committee, may—

(a) make and as necessary or desirable vary from time to time arrangements for the temporary provision of general medical services for the patients for whose treatment that doctor was or might have become responsible which arrangements may consist of or include the appointment under this paragraph of one or more doctors to undertake the provision of such services;

(b) where a doctor included in the medical list by virtue of regulation 4(1)(a) ceases because of his death to be entitled to be so included and

(a) Paragraph (4A) of regulation 18 was inserted by regulation 5 of S.I. 1981/56.

within 7 days of the date of death any person applies to the Board 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 provision of general medical services for the patients for whose treatment that doctor was or might have become responsible.

(3) The Board may make such arrangements as they think 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 them for the appointment of that doctor.

(4) Arrangements under paragraph (2) shall subsist for such period as the Board think fit, but such period shall not extend beyond one year unless the Board are at the expiry of that year satisfied that the continuation of the said arrangements with or without variations is necessary to enable general medical services to continue to be provided; and in any event the said arrangements shall not subsist beyond the date on which the relevant practice vacancy is permanently filled or the suspension referred to in paragraph (2) ceases to have effect; but the Board shall so far as possible give prior written notice of the termination of the said arrangements to the doctor with whom those arrangements were made.

(5) Subject to paragraph (4), where arrangements under paragraph (2) with or without variations are to continue for a period beyond one year, the Board shall at the expiry of that year notify the Secretary of State in writing of such continuation, and subsequently of the termination of such arrangements as soon as is practicable.

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

(7) Where the Board are satisfied—

(a) 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, they may after consultation with the Area Medical Committee and with the consent of the Secretary of State make arrangements for the temporary provision of general medical services for the patients for whose treatment that doctor was or might have become responsible, which arrangements may consist of or include the appointment under this paragraph of one or more doctors to undertake the provision of such services.

(8) Subject to paragraph (11), arrangements under paragraph (7) shall subsist for such period as the Board think fit, but not, in a case to which paragraph (7)(a) applies, beyond the date on which the Board are satisfied, after consulting the Area Medical Committee, that the doctor is fit to resume his practice.

(9) The Board may, before varying or terminating any arrangements made under paragraph (7) and after consulting the Area Medical Committee, require the doctor to be medically examined.

- (10) A doctor required under this regulation to be medically examined shall submit himself for medical examination by a doctor or doctors appointed, after consultation with the Area Medical Committee, by the Board, and such examining doctor or doctors shall thereafter report in writing to the Board as to the doctor's fitness to carry out his obligations under the terms of service.
- (11) Where the Board propose that arrangements under paragraph (7) shall continue for longer than one year or such shorter period as the Secretary of State may in any particular case specify, or beyond a second or subsequent year or any subsequent specified period in the particular case, they shall so notify the Secretary of State in writing not less than one month, or as soon thereafter as is practicable, before the expiry of that year or such specified period, and shall in each case obtain the consent of the Secretary of State to the continuation of the arrangements.
- (12) Where arrangements under paragraph (7) expire or are terminated by the Board they shall give reasonable prior written notice to the doctor with whom those arrangements were made, and shall as soon as practicable notify the Secretary of State in writing that such termination has taken place.
- (13) The Board shall, where practicable, notify in writing any doctor with respect to whose patients arrangements are made under this regulation of such arrangements and of their variation or termination.
- (14) Each doctor appointed under this regulation shall throughout his appointment be bound by the terms of service which were applicable to the doctor, the treatment of all of whose patients he is appointed with or without other doctors to undertake; but such appointment shall not oblige the doctor so appointed to provide maternity medical services or contraceptive services which he has not undertaken to provide.
- (15) Where the doctor for the treatment of whose patients arrangements are made under this regulation has accepted patients for the provision of maternity medical services and the doctor or doctors appointed under this regulation have not undertaken to provide such services, the Board shall so inform the patients accepted for these services and inform them of any arrangements to enable them to continue to receive such services.
- (16) Any patient of a doctor in respect of whose patients the Board have made arrangements for the temporary provision of general medical services under this regulation shall be deemed to remain on the list of that doctor for the duration of such arrangements unless he makes application for acceptance by another doctor or is otherwise removed from the list in accordance with these regulations.
- (17) Any application for acceptance and inclusion on a doctor's list received by a doctor appointed under this regulation in the course of such appointment shall be deemed to be an application for acceptance and inclusion in the list of the doctor in respect of whose patients the appointment was made.
- (18) The Board may deduct from the remuneration of a doctor with respect to whose patients arrangements are made under paragraph (7) 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 services in an emergency

recognised by the Secretary of State for the purpose of these regulations, the Board shall deduct from his remuneration the cost of arrangements under this regulation.

(19) In its application to the temporary provision of general medical services, section 19(3) of the National Health Service (Scotland) Act 1978 shall have effect as if the words “otherwise than temporarily” were inserted after the words “general medical services” in that subsection.

(20) In its application to a doctor appointed under this regulation, section 20(1A) of the National Health Service (Scotland) Act 1978(a) shall have effect as if (a) the words “shall be entitled to have his application for the inclusion of his name in the list kept by any Health Board referred to the Medical Practices Committee” were deleted and the words “shall be appointed to provide general medical services temporarily” were inserted in their place; and (b) the words “and where a Board” to the end were deleted.

(21) Sections 20(1) and 21 of the National Health Service (Scotland) Act 1978 shall not apply in respect of the temporary provision of general medical services by a doctor appointed under this regulation.”.

Amendment of Part VIII of the principal regulations

4. In regulation 31(1) of the principal regulations (payments to doctors)—

- (a) for the words “doctors providing general medical services” there shall be substituted the words “doctors with whom arrangements exist for the provision of general medical services”;
- (b) after the words “he may recognise as representing doctors” there shall be added the words “with whom arrangements exist for the provision of general medical services”;
- (c) the following sub-paragraph shall be added after sub-paragraph (f)—
 - “(g) payments in relation to the making of arrangements for, and payments for, the temporary provision of general medical services;”.

5. For regulation 33(2) of the principal regulations (publication of particulars) there shall be substituted the following:—

“(2) The Board may make any of the documents described in paragraph (1) of this regulation available for inspection at such other places in its area as appear convenient for informing all persons interested, or may publish at such places a notice of the places and times at which copies of any of those documents may be inspected; provided always that in the case of the medical list that document may be made available for inspection without the names of the doctors who would otherwise be listed there only temporarily by virtue of appointment under regulation 20, or who do not provide general medical services in the locality of that other place.”.

(a) Section 20(1A) was inserted by Article 4(1)(b) of S.I. 1981/432.

Amendment of Part I of Schedule 1 to the principal regulations

6. In Part I of Schedule 1 to the principal regulations (terms of service for doctors)—

- (a) in paragraph 4(1)(h) for the reference “paragraph 12(2);” there shall be substituted the reference “paragraph 12(2A);”;
- (b) in paragraph 12(1)(b) after the words “give treatment personally” there shall be inserted the words “to a patient”.
- (c) for paragraph 12(3) there shall be substituted the following:—

“A doctor shall make all necessary arrangements for the treatment of his patients. He shall inform the Board of any standing deputising arrangements. When he proposes to be absent from his practice for more than two weeks he shall inform the Board of the arrangements he has made for the provision of general medical services to his patients during his absence. If he has undertaken the provision of contraceptive services or maternity medical services he shall ensure that the doctor or doctors providing general medical services on his behalf will also provide such services.

Where such absence is to exceed 3 consecutive months he shall before the expiry of that 3 month period obtain the consent of the Board to such arrangements in respect of any period beyond the third month of his absence. In giving consent the Board may also impose such conditions as they think necessary or expedient to ensure the adequacy of such arrangements.

The provisions of paragraph 12A(6) and (7) shall apply with respect to the Board’s consent and conditions under paragraph 12(3) as they apply under paragraph 12A.”.

Amendment of Schedule 4 to the principal regulations.

7. In Schedule 4 to the principal regulations (list of prescribed medical certificates) after item number 11 there shall be inserted the following:—

- (a) in the column headed “Medical Certificate” the words “12. To support application for certificate confirming exemption from charges in respect of drugs and appliances.”;
- (b) in the column headed “Short title of enactment under or for the purpose of which certificate required”, and opposite item 12 above mentioned, the words “National Health Service (Scotland) Act 1978 (1978 c.29).”.

Transitional provisions

8. 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, obligations or liabilities acquired or 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 enforce-

ment of any investigation, proceedings or remedy relating to the matters referred to in paragraph (a) above.

Revocation

9. Paragraph 22 of Part I of Schedule 1 to the principal regulations is hereby revoked.

George Younger,
One of Her Majesty's Principal Secretaries of State.

New St Andrew's House,
Edinburgh.
24th October 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974 ("the principal regulations") which regulate the terms upon which doctors and chemists provide those services under the National Health Service (Scotland) Act 1978. The amendments relate principally to arrangements for the temporary provision of general medical services.

Regulation 2 makes various amendments to the provisions of the principal regulations governing the addition and removal of the names of doctors from the medical list, and in particular amends regulation 5 of the principal regulations so as to allow a Health Board to remove from the medical list the name of a doctor who has not provided services personally for six months.

Regulation 3 amends principal regulation 18 so as to modify the procedures which a Board is required to follow in notifying patients of a change of doctor and replaces regulation 20 and associated Schedule 1 provisions concerning temporary arrangements in the principal regulations with a new regulation 20. New principal regulation 20 prescribes the circumstances and terms in which temporary arrangements may be made, and also introduces related provisions about notification to, and obtaining the consent of, the Secretary of State, and about medical reports on doctors being temporarily replaced. Regulations 4 and 5 make consequential amendments to the principal regulations concerning payments and publication of the medical list.

Regulation 6 amends paragraph 12 of Schedule 1 to the principal regulations so as to require a doctor to obtain the consent of the Board to arrangements for the provision of general medical services to his patients where he proposes to be absent from his practice for more than 3 months. Regulation 7 amends the list of medical certificates in Schedule 4 to the principal regulations which a doctor is required to issue free of charge to his patients. Regulation 8 contains transitional provisions and regulation 9 a revocation.

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