
STATUTORY INSTRUMENTS

1991 No. 573

The National Health Service (Fund-Holding Practices) (General) (Scotland) Regulations 1991

PART IV

Removal of Recognition

Grounds for removal of recognition

7.—(1) Where, by 28th February in any year, the relevant Health Board has notified the members of a fund-holding practice of the amount of the allotted sum for the financial year beginning on the next 1st April and the members of the practice have not, within one month from the date on which the notice is sent, notified the relevant Health Board that they are prepared to accept that amount as their allotted sum, the relevant Health Board may remove recognition from them with effect from that 1st April (whether or not the recognition is one which has taken effect originally on 1st April).

(2) The relevant Health Board may remove recognition from the members of a fund-holding practice if a condition specified in regulation 2(2) is no longer fulfilled in relation to the practice.

Procedure for removal of recognition

8.—(1) Except as provided by regulation 9 where a relevant Health Board propose to remove recognition from the members of a fund-holding practice on the ground specified in regulation 7(2) the relevant Health Board shall—

- (a) send to each member of the practice a notice in writing specifying
 - (i) the reason for the proposal; and
 - (ii) the date, which shall be at least 3 months from the date on which the notice is sent, on which the removal of recognition is proposed to have effect; and
- (b) inform the members of the practice that they may, subject to paragraphs (2) and (3), make representations to the Board concerning the matter either orally or in writing.

(2) Representations in writing shall be sent to the relevant Health Board within two months of the date on which the notice referred to in paragraph (1) is sent.

(3) Where the members of the practice wish to make representations orally they shall, within two weeks of the date on which the notice referred to in paragraph (1) is sent, give notice to that effect to the relevant Health Board who shall, within six weeks of the date on which the members of the fund-holding practice give notice under this paragraph, give them an opportunity of appearing before and being heard by that Board.

(4) If the relevant Health Board decide, having taken into account any representations made by the members of the fund-holding practice, to adopt the proposal, that Board shall within the period of four weeks from the expiry of the period of two months or, as the case may be, six weeks referred to in paragraphs (2) and (3) respectively send to each member of the fund-holding practice a notice in writing of its decision which shall include—

- (a) a statement of the reasons for the decision;
- (b) the date on which the removal of recognition takes effect;
- (c) details of the right to appeal to the Secretary of State against the removal of recognition; and
- (d) the consequences of removal of recognition,

(5) Where the relevant Health Board removes recognition from the members of a fundholding practice in the circumstances specified in regulation 7(1), that Board shall send to each member of the practice a written notice of removal of recognition which shall include

- (a) a statement of the reasons for the removal of recognition;
- (b) the date on which the removal of recognition has effect;
- (c) details of the right of appeal to the Secretary of State against the removal of recognition; and
- (d) unless recognition has not taken effect in accordance with regulation 5(1)(a) of the Applications Regulations, the consequences of the removal of recognition.

Removal of recognition with immediate effect

9. mdash;

(1) Where it appears to a relevant Health Board—

- (a) that either—
 - (i) it is necessary in the interests of patients of members of the practice; or
 - (ii) the members of the practice have failed to maintain administrative and financial systems conducive to the effective and efficient management of the allotted sum; and
- (b) that recognition should be removed with immediate effect,

the relevant Health Board shall remove recognition under this regulation.

(2) In the circumstances specified in paragraph (1), the relevant Health Board shall send to each member of the practice notice of removal of recognition which shall include—

- (a) a statement of the reasons for the removal of recognition;
- (b) intimation that the removal has immediate effect;
- (c) details of the right to appeal to the Secretary of State against the removal of recognition; and
- (d) the consequences of the removal of recognition.

Appeals to the Secretary of State

10.—(1) The members of a fund-holding practice or, where removal of recognition has taken effect, a former fund-holding practice, may appeal to the Secretary of State against the removal of recognition by the relevant Health Board.

(2) Regulation 6(2) to (11) of the Applications Regulations shall apply in relation to an appeal against removal of recognition as if—

- (a) a reference to the members of the practice were a reference to the members of a fund-holding practice or, where removal of recognition has taken effect, a former fund-holding practice;
- (b) a reference to a decision to refuse to grant a practice recognition as a fund-holding practice were a reference to a decision to remove recognition as a fund-holding practice; and

- (c) for the reference in paragraph (10) to “these Regulations” there was substituted a reference to “regulation 3 of the National Health Service (Fund-Holding Practices) (General) (Scotland) Regulations 1991”.

Consequences of removal

11. mdash;

(1) On the day on which the removal of recognition takes effect

- (a) any liability of the relevant Health Board to pay to members of the former fundholding practice an allotted sum shall cease;
- (b) all the rights and liabilities of members of the fund-holding practice in relation to the allotted sum shall transfer to the relevant Health Board; and
- (c) subject to paragraph (2), the fund-holding account shall be treated as having been opened by the relevant Health Board and that Board may deal with the allotted sum or any part of it standing at credit in that account as though it were the fund-holding practice.

(2) Where, on the day on which the removal of recognition takes effect, there remains in the fund-holding account any part of the allotted sum which may apply for the purposes specified in regulation 16 (savings from the allotted sum) the relevant Health Board shall apply that part of the allotted sum to such of those purposes as the former fund-holding practice may require.