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STATUTORY INSTRUMENTS

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**1992 No. 636**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (Fund-holding  
Practices) (Amendment) Regulations 1992**

<i>Made</i>	- - - -	<i>10th March 1992</i>
<i>Laid before Parliament</i>		<i>11th March 1992</i>
<i>Coming into force</i>	- -	<i>1st April 1992</i>

The Secretary of State, in exercise of powers conferred by sections 126(4) and (5) and 128(1) of the National Health Service Act 1977(1) and sections 14(2) and (6), 15(7) and 16(1), (3) and (4) of the National Health Service and Community Care Act 1990(2) 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 (Fund-holding Practices) (Amendment) Regulations 1992 and shall come into force on 1st April 1992.

(2) In these Regulations, “the Application Regulations” means the National Health Service (Fund-holding Practices)(Application and Recognition) Regulations 1990(3) and “the principal Regulations” means the National Health Service (Fund-holding Practices)(General) Regulations 1991(4).

**Amendment of regulation 5 of the Application Regulations**

2. In regulation 5 of the Application Regulations (grant of recognition as a fund-holding practice), for paragraph (1) there shall be substituted the following paragraph:—

“(1) A relevant Regional Health Authority shall grant recognition as a fund-holding practice if it is satisfied—

(a) that the conditions specified in regulation 6 are fulfilled; and

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(1) 1977 c. 49; section 126(4) was amended by, and section 126(5) was inserted by, section 65(2) of the National Health Service and Community Care Act 1990 (“the 1990 Act”); section 128(1) was amended by section 26(2) of the 1990 Act and is cited for the definition of “prescribed” and “regulations”.

(2) 1990 c. 19.

(3) S.I. 1990/1753.

(4) S.I. 1991/582.

- (b) that the practice does not include both—
  - (i) a member who practises in a partnership where the total number of patients on the lists of patients of the medical practitioners in the partnership exceeds 7,000, and
  - (ii) a member who practises in another such partnership.”.

**Amendment of regulation 6 of the Application Regulations**

3. In regulation 6 of the Application Regulations (conditions for obtaining recognition), in paragraph (a) for “9,000” in both places where the figure occurs, there shall be substituted “7,000”.

**Amendment of regulation 8 of the Application Regulations**

- 4. In regulation 8 of the Application Regulations (appeals to the Secretary of State)—
  - (a) in paragraph (8),
    - (i) after sub-paragraph (a) there shall be inserted “and”, and
    - (ii) sub-paragraphs (c) and (d) shall be omitted; and
  - (b) after paragraph (8) there shall be added the following new paragraph:—
    - “(9) Where the Secretary of State has determined an appeal in accordance with this regulation, he shall—
      - (a) send to each member of the practice making the appeal and to the relevant Regional Health Authority notice in writing of his decision; and
      - (b) include in the notice a statement of the reasons for his decision.”.

**Amendment of regulation 3 of the principal Regulations**

- 5. In regulation 3 of the principal Regulations (conditions for continuing recognition)—
  - (a) in paragraph (2)—
    - (i) in sub-paragraph (j) for “patient of a member of the practice”, there shall be substituted “an individual who is on the list of patients of a member of the practice”,
    - (ii) for sub-paragraph (l) there shall be substituted the following sub-paragraph:—
      - “(l) the allotted sum is applied as required by regulations 16 and 17 and is not applied for purposes other than those specified in regulations 16, 17, 19 and 20;”,
    - (iii) after sub-paragraph (m) there shall be inserted the following sub-paragraph:—
      - “(n) where the members of a fund-holding practice employ a person or purchase any services, they first satisfy themselves that the employee has such qualifications, training and experience as are necessary for that employment or, as the case may be, that the provider of the services is suitably competent to provide those services.”; and
  - (b) in paragraph (3)—
    - (i) for “In this regulation”, there shall be substituted “For the purposes of this regulation”,
    - (ii) in sub-paragraph (a) after head (v) there shall be inserted the following:—
      - “or (vi) he provides or has provided any services to that body;”,
    - (iii) for sub-paragraph (b), there shall be substituted the following sub-paragraph:—

- “(b) a member of a fund-holding practice shall be treated as having a particular connection with a person if—
- (i) he is a close relative of the person,
  - (ii) he is a partner of the person,
  - (iii) he is in the employment of the person, or
  - (iv) he provides or has provided any services to the person;”.

#### **Amendment of regulation 4 of the principal Regulations**

6. For regulation 4 of the principal Regulations (additions to existing fund-holding practices), there shall be substituted the following regulation:—

##### **“Additions to existing fund-holding practices**

4.—(1) Subject to paragraph (2), where a medical practitioner (whether or not he is a member of another fund-holding practice) wishes to become a member of an existing fund-holding practice—

- (a) he and the members of the existing fund-holding practice shall apply to the relevant Regional Health Authority for recognition as a fund-holding practice in accordance with the Application Regulations; but
- (b) regulations 4 and 5(2) of the Application Regulations (time of application and grant of recognition as a fund-holding practice) shall not apply in the case of that application.

(2) Paragraph (1) shall not apply to a medical practitioner who becomes a partner of a member of a fund-holding practice as a result of the grant of an application made by the medical practitioner to a Family Health Services Authority under regulation 5 of the National Health Service (General Medical Services) Regulations 1992 (application for inclusion in the medical list or to succeed to a vacancy)(5).

(3) Where a medical practitioner becomes a partner of a member of a fund-holding practice as a result of the grant of an application mentioned in paragraph (2), he shall, on giving notice in writing to that effect to the relevant Regional Health Authority, be a member of that fund-holding practice notwithstanding that he did not join in the making of an application under regulation 3 of the Application Regulations.”.

#### **Amendment of regulation 5 of the principal Regulations**

7. In regulation 5 of the principal Regulations (withdrawal of a member of a fund-holding practice), for paragraph (1) there shall be substituted the following paragraph—

- “(1) Where—
- (a) a member of a fund-holding practice withdraws from the practice; and
  - (b) the conditions specified in regulation 3(2) continue to be fulfilled in relation to the practice, of the practice shall not be affected by the withdrawal.”.

#### **Amendment of regulation 9 of the principal Regulations**

8. In regulation 9 of the principal Regulations (consequences of renunciation of recognition), in paragraph (2), for “regulation 4(2)(d), (e), (f), (g), (h) and (l)”, there shall be substituted “regulation 3(2)(d), (e), (f), (g), and (h)”.

**Amendment of regulation 14 of the principal Regulations**

9. In regulation 14 of the principal Regulations (appeals to the Secretary of State) in paragraph (2), for “Regulation 8(2) to (8) of the Application Regulations”, there shall be substituted “Regulation 8(2) to (9) of the Application Regulations”.

**Amendment of regulation 17 of the principal Regulations**

10. In regulation 17 of the principal Regulations (payment for goods and services), for paragraph (1) there shall be substituted the following paragraph:—

“(1) The members of a fund-holding practice shall apply the allotted sum so as to secure the purchase of such of the goods and services, other than general medical services, referred to in paragraph (2) as are necessary for the proper treatment of individuals on the lists of patients of the members of the practice.”.

**Amendment of regulation 19 of the principal Regulations**

11. In regulation 19 of the principal Regulations (payment of salaries) after paragraph (2), there shall be inserted the following new paragraph:—

“(3) The members of a fund-holding practice may apply the allotted sum for the purpose of paying fees to persons engaged to provide services which are necessary for the proper treatment of individuals who are on the lists of patients of the members of the practice, provided that such persons are engaged to provide those services at the practice premises.”.

10th March 1992

*William Waldegrave*  
One of Her Majesty’s Principal Secretaries of  
State

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Fund-holding Practices) (Applications and Recognition) Regulations 1990 (“the Application Regulations”), which provide for the making and determination of applications by medical practices providing general medical services under the National Health Act 1977 for recognition as fund-holding practices, and the National Health Service (Fund-holding Practices) (General) Regulations 1991 (“the principal Regulations”), which govern the operation of recognised fund-holding practices.

Regulation 6 of the Application Regulations is amended, in the case of applications for recognition as a fund-holding practice made on or after 1st April 1992, to reduce from 9,000 to 7,000 the minimum number of patients which members of a practice must have on their lists before they are eligible for recognition as a fund-holding practice (regulation 3).

Regulation 3(2) of the principal Regulations is amended to include among the conditions with which a fund-holding practice must comply in order to be entitled to continuing recognition, the requirements that it must apply its allotted sum for certain purposes specified in the Regulations and it must ensure that employees and those whom it engages to provide services are suitably competent (regulation 5).

Regulation 4 of the principal Regulations is amended to disapply, in the case of applications for recognition where an additional medical practitioner proposes to join an existing fund-holding practice, certain provisions relating to the timing of applications (regulation 6).

Regulation 17 of the principal Regulations is amended to provide that goods and services may be purchased out of the sum allotted to a fund-holding practice only for the benefit of individuals who are on the lists of patients of members of the practice (regulation 10), and an amendment is made in regulation 19 of the principal Regulations in connection with the engagement of persons to provide services (regulation 11).

These Regulations also make other amendments both in the Application Regulations and in the principal Regulations which are either of a minor or consequential nature.