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STATUTORY INSTRUMENTS

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**1995 No. 1571 (S.111)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Fund-Holding Practices) (Scotland) Amendment Regulations 1995**

<i>Made</i>	- - - -	<i>19th June 1995</i>
<i>Laid before Parliament</i>		<i>30th June 1995</i>
<i>Coming</i>	- - - -	<i>21st July 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 2(5), 87A(4), 87B(5), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1), 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) (Scotland) Amendment Regulations 1995 and shall come into force on 21st July 1995.

(2) In these Regulations “the principal Regulations” means the National Health Service (Fund-Holding Practices) (Scotland) Regulations 1993(2).

**Amendment of regulation 1 of the principal Regulations**

2. In regulation 1(2) of the principal Regulations (interpretation)—

(a) after the definition of “practice” insert—

““primary care purchasing practice” means a fund-holding practice which has been granted recognition as a primary care purchasing practice in accordance with these Regulations;” and

(b) after the definition of “relevant Health Board” insert—

““standard fund-holding practice” means a fund-holding practice which has been granted recognition as a standard fund-holding practice in accordance with these Regulations.”.

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(1) 1978 c. 29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(1); sections 87A and 87B were inserted by the 1990 Act, section 34; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, contains provision, and section 108(1) contains a definition of “regulations”, relevant to the exercise of the statutory powers under which these Regulations are made.

(2) S.I. 1993/488, amended by S.I. 1993/1369.

### **Amendment of regulation 2 of the principal Regulations**

3. In regulation 2 of the principal Regulations (application for recognition as a fund-holding practice)—

(a) after paragraph (1) insert—

“(1A) The application shall state whether it is an application for recognition as a primary care purchasing practice or as a standard fund-holding practice.”; and

(b) after paragraph (2) insert—

“(2A) When an application has been made but before it has been determined in accordance with regulation 4, the members of the practice may, by notice to the relevant Health Board signed by each member of the practice, change their application for recognition as a standard fund-holding practice, or as the case may be, a primary care purchasing practice.”.

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

4. For regulation 3 of the principal Regulations (grant of recognition as a fund-holding practice) substitute—

“3.—(1) A Health Board shall not grant recognition as a standard fund-holding practice or as a primary care purchasing practice (as the case may be) unless it is satisfied that the conditions specified in Schedule 1 to these Regulations are fulfilled.

(2) For the purposes only of the payment and application of the management allowance referred to in regulation 19A, recognition shall take effect on the date on which the Health Board determines to grant recognition.

(3) A fund-holding practice which is recognised as such immediately before 21st July 1995 shall be a standard fund-holding practice.”.

### **Amendment of regulation 6 of the principal Regulations**

5. For regulation 6 of the principal Regulations (conditions for continuing recognition) substitute—

“6. Subject to the provisions of Part IV of these Regulations the members of a standard fund-holding practice or primary care purchasing practice (as the case may be) shall continue to be entitled to recognition as such if and for so long as the conditions specified in Schedule 2 are fulfilled in relation to such a practice.”.

### **Application for change in status of recognised fund-holding practice**

6. After regulation 8 of the principal Regulations (withdrawal or death of a member of a fund-holding practice), insert the following new regulation:—

#### **“Application for change in status of recognised fund-holding practice**

8A.—(1) A primary care purchasing practice may apply to become a standard fund-holding practice and a standard fund-holding practice may apply to become a primary care purchasing practice.

(2) In this regulation, an application under paragraph (1) is referred to as an “application for change in fund-holding status”.

(3) An application for change in fund-holding status to take effect from 1st April in any year shall be made by 30th September in the preceding year or, in the case of an application

from a standard fund-holding practice to become a primary care purchasing practice, such later date as the Health Board may agree.

(4) Regulation 2 (except for paragraph (2A)), and regulations 3 and 4 shall apply to an application for change in fund-holding status as they apply to an application for recognition as a fund-holding practice but as if the references in those regulations—

- (a) to an application were references to an application for change in fund-holding status; and
- (b) to the grant or refusal of recognition were references to the grant or refusal of an application for change in fund-holding status.”.

#### **Amendment of regulation 11 of the principal Regulations**

7. In regulation 11(2) of the principal Regulations (grounds for removal of recognition)—
- (a) for “a fund-holding practice”, substitute “a standard fund-holding practice or a primary care purchasing practice (as the case may be)”; and
  - (b) after “Schedule 2” insert “in relation to such a practice”.

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

8. For regulation 17(2) of the principal Regulations (payment for goods and services) substitute—

“(2) The goods and services referred to in paragraph (1) are the goods and services specified, in the case of standard fund-holding practices in Part I and in the case of primary care purchasing practices in Part II, of a list approved from time to time by the Secretary of State for the purposes of this regulation.

(2A) Where—

- (a) the list mentioned in paragraph (2) includes services in connection with the termination of pregnancy; and
- (b) the members of a fund-holding practice do not wish to purchase such services in any financial year,

they may give notice to that effect to the Health Board not later than 6 months from the date on which their grant of recognition had effect, or in any other case by 30th September in the preceding year.

(2B) Where such notice has been given, the cost of any such services as are provided to individuals on the lists of patients of members of the practice in the financial year in question shall be met by the Health Board whose primary functions include the provision of goods and services to those individuals.”.

#### **Amendment of regulation 18 of the principal Regulations**

9. In regulation 18 of the principal Regulations (payments to members of the fund-holding practice)—

- (a) in paragraph (1), from “in accordance” until the end of the paragraph substitute—
  - “(a) in accordance with an arrangement made in pursuance of paragraph (2);
  - (b) pursuant to regulation 19A(4)(c)(ii); or
  - (c) pursuant to regulation 20(2)(d) or (e).”;and
- (b) in paragraph (2), for “a fund-holding practice” substitute “a standard fund-holding practice”.

## Payment for management expenses

10. After regulation 19 (payment of salaries), insert the following new regulation:—

### “Payment for management expenses

19A.—(1) Where the allotted sum is determined wholly or partly by reference to the management expenses of the members of the standard fund-holding practice or the primary care purchasing practice as the case may be, the amount so determined (in this regulation referred to as the “management allowance”) may be applied in accordance with this regulation.

(2) The management allowance shall be applied only for the purposes of management expenses.

(3) The amount applied out of the allotted sum for the purposes of management expenses shall not exceed the management allowance and no more than 25% (or in the preparatory period 50%) of the management allowance may be applied for the purpose mentioned in paragraph (4)(d).

(4) For the purposes of this regulation, “management expenses” are—

- (a) the cost of employing staff in connection with the management of the allotted sum;
- (b) the cost of training members of the practice or their staff in connection with the management of the allotted sum;
- (c) the cost, not exceeding such sum as the Secretary of State may specify in directions under section 87B(1) of the Act, of either—
  - (i) employing or engaging (as an assistant or deputy) a registered medical practitioner to provide general medical services to the patients of a member of the practice who is engaged in the management of the allotted sum, or
  - (ii) paying a member of the practice for his time in connection with the management of the allotted sum;
- (d) the cost of acquiring office equipment (excluding computers) required for the purposes of the management of the allotted sum;
- (e) the upkeep and running costs of office equipment required for the purposes of the management of the allotted sum, including computer hardware and software running costs not exceeding such sum as the Secretary of State may specify in directions as aforesaid;
- (f) the cost of specialist advice required in connection with the management of the allotted sum; and
- (g) the cost of minor internal modifications to any premises from which the members of the practice carry on their practice which are required to provide office accommodation for staff employed in connection with the management of the allotted sum.

(5) In this regulation “preparatory period” means the interval between a grant of recognition under regulation 4(1)(a) or 5(12) and the date determined on which the grant of recognition is to have effect.”.

11.—(1) For regulation 20 of the principal Regulations (savings from the allotted sum) there is substituted the following regulation:—

“**20.**—(1) The members of the fund-holding practice may discharge their obligations under regulations 16 and 17 and exercise their powers under regulations 18 and 19 in such a way as to take into account any benefit to individuals on the lists of patients of the members of the practice, which in their opinion, would be derived from making savings to be applied in accordance with the following provisions of this regulation and regulations 16, 17, 18 and 19 shall be construed accordingly.

(2) Subject to paragraph (3) where the accounts relating to the allotted sum paid to members of a fund-holding practice in respect of a financial year have been audited in accordance with section 86(1A) of the Act<sup>(3)</sup>, the members of the fund-holding practice may continue to apply any part of the allotted sum paid to them in respect of that financial year, for a period of four years after the end thereof, for the purposes specified in regulations 16, 17, 18 and 19 and, in addition, with the consent of the Health Board for any one or more of the following purposes:—

- (a) the purchase of material or equipment which—
  - (i) can be used for the treatment of patients of the practice; or
  - (ii) enhances the comfort or convenience of patients of the practice; or
  - (iii) enables the practice to be managed more effectively and efficiently; or
  - (iv) relates to health education; or
- (b) the improvement of any premises from which the members of the practice carry on their practice whether by improving the structure of the premises or the purchase of furniture and furnishings for the premises; or
- (c) the purchase of services in connection with an audit of clinical practice which relates to any of the goods and services which are included in the relevant part of the list of goods and services mentioned in regulation 17(2); or
- (d) commissioning research which relates to any of the goods and services included in the relevant part of the list mentioned in regulation 17(2); or
- (e) training for members or employees of the practice which is required in connection with their membership of the practice or, in the case of employees, their duties arising in the course of their employment.

(3) The Health Board shall not consent to the application of any part of an allotted sum for any of the purposes specified in paragraph (2)(a) to (e) unless it is satisfied that the expenditure would—

- (a) be for the benefit of the patients of the members of the practice; and
- (b) represent value for money.”.

### **Amendment of regulation 21 of the principal Regulations**

**12.** In regulation 21(1) of the principal Regulations (recovery of misapplied amounts), after “19” insert “,19A”.

### **Amendment of Schedule 1 to the principal Regulations**

**13.**—(1) Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice) is amended as follows.

- (2) For paragraph 1, substitute—

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(3) Section 86(1A) was inserted by the National Health Service and Community Care Act 1990, section 36(4).

“1. In the case of an application for recognition as a standard fund-holding practice on the date on which the application is made there will be a total of at least 4,000 patients on the lists of patients of members of the practice or in the opinion of the relevant Health Board it is likely that there will be a total of at least 4,000 patients on those lists during the period of twelve months commencing on that date.”.

(3) Paragraph 3 is omitted.

### **Amendment of Schedule 2 to the principal Regulations**

**14.**—(1) Schedule 2 to the principal Regulations (conditions for continuing recognition as a fund-holding practice) is amended as follows.

(2) In paragraph 1 at the beginning insert “In the case of a standard fund-holding practice” and for the figure “6,000” on each occasion where it occurs substitute “4,000”.

(3) Paragraph 2 is omitted.

(4) After paragraph 10, there is inserted—

“**10A.** The members of the practice send to the relevant Health Board—

(a) before the beginning of each financial year, a practice plan outlining how the practice proposes to spend its allotted sum; and

(b) by 30th June in any year, an annual report summarising how its allotted sum has been spent in the most recent financial year.”.

(5) For paragraph 12 there is substituted—

“**12.** Except in the circumstances specified in sub-paragraph (1)(a), (d), (e), (h), (i), (j), (k), (l), (n), (o) and (p) of paragraph 36 (acceptance of fees) of Schedule 1 (terms of service for doctors) to the National Health Service (General Medical Services) (Scotland) Regulations 1995(4), the members of the practice do not demand or accept from any patient of a member of the practice a payment (including a payment in kind) in respect of any treatment—

(a) provided by a member of the practice; or

(b) which a member of the practice has arranged to be provided for the patient under the Act.”.

St Andrew’s House,  
Edinburgh  
19th June 1995

*Fraser of Carmyllie*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Fund-Holding Practices) (Scotland) Regulations 1993 (“the principal Regulations”) which regulate the recognition and operation of fund-holding practices.

The principal change effected by these Regulations is the creation of two types of fund-holding practice, namely the standard fund-holding practice and the primary care purchasing practice. Practices with at least 4,000 patients on their lists will be able to apply for recognition as a standard fund-holding practice. Recognition as a primary care purchasing practice is not dependent on the number of patients on the practice’s lists. Existing fund-holders will automatically become standard fund-holding practices.

Regulation 6 permits one type of fund-holding practice to apply to become a fund-holding practice of the other type.

Regulation 10 provides for the payment to fund-holding practices of a management allowance to be spent from the allotted sum on certain management expenses, and regulation 11 extends the purposes on which fund-holding practices may spend savings and introduces a requirement that the Health Board consent to certain categories of such expenditure.

The Regulations make other minor drafting and consequential amendments.