
STATUTORY INSTRUMENTS

1996 No. 702

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (General Medical
Services) Amendment Regulations 1996**

<i>Made</i>	- - - -	<i>11th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health, in exercise of powers conferred on him by sections 15(1), 29 and 126(4) of the National Health Service Act 1977(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 (General Medical Services) Amendment Regulations 1996 and shall come into force on 1st April 1996.

(2) In these Regulations, “the principal Regulations” means the National Health Service (General Medical Services) Regulations 1992(2).

Amendment of regulation 4 of the principal Regulations

2. In regulation 4 of the principal Regulations (medical list), omit “and” at the end of paragraph (4)(e), and at the end of paragraph (4)(f) insert—

“and

(g) if he has made an arrangement under paragraph 18A(2) of the terms of service transferring responsibility for his patients at certain times to another doctor and, if

(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48), section 5(2), by the 1990 Act, section 12(1) and (from 1st April 1996) by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 6. Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3) and (from 1st April 1996) by the 1995 Act, Schedule 1, paragraph 18. Section 126(4) was amended by the 1990 Act, section 65(2).

(2) S.I. 1992/635; relevant amending instruments are S.I. 1993/540, 1994/633, 1994/3130 and 1995/80.

so, the name of the doctor to whom and the times during which he has so transferred responsibility.”

Amendment of regulation 24 of the principal Regulations

3. In regulation 24 of the principal Regulations (limitation on number of persons on doctors’ lists), in paragraph (1)(a), for “paragraph 18” substitute “paragraphs 18 or 18A”.

Amendment of regulation 35 of the principal Regulations

4. In regulation 35 of the principal Regulations (claims and overpayments) in paragraph (2)(b), for “regulation 7(1)” and “regulation 10(1)(c)”, substitute “regulation 5(1)” and “regulation 9(1)(c)” respectively.

Amendment of Schedule 2 to the principal Regulations

5.—(1) Schedule 2 to the principal Regulations (terms of service for doctors) is amended as follows.

(2) In paragraph 1, after the definition of “Drug Tariff” insert—

““notice” means notice in writing;”.

(3) In paragraph 4 (a doctor’s patients), in sub-paragraph (1)—

(a) in paragraph (1)—

(i) for “paragraph 19” substitute “paragraph 18(2)”, and

(ii) omit “under that paragraph”, and

(b) omit “and” at the end of paragraph (k), and at the end of paragraph (1) insert—

“and

(m) any person for whom he has accepted responsibility under an arrangement made under paragraph 18A(2).”.

(4) In paragraph 18 (absences, deputies, assistants and partners), in sub-paragraph (1), after “sub-paragraph (2)” insert “and paragraph 18A”.

(5) After paragraph 18 insert the following paragraphs—

“Out of hours arrangements

18A.—(1) In this paragraph and in paragraph 18B—

(a) “out of hours period” means—

(i) the period beginning at 7pm on Mondays to Fridays and ending at 8am the following day,

(ii) the period between 1pm on Saturday and 8am on the following Monday, and

(iii) Good Friday, Christmas Day and bank holidays,

and “part” of an out of hours period means any part of any one or more of the periods described in paragraphs (i) to (iii);

(b) “out of hours arrangement” means an arrangement under sub-paragraph (2); and

(c) “transferee doctor” means a doctor who has undertaken to carry out the obligations of another doctor under these terms of service during part or all of the out of hours period in accordance with an out of hours arrangement.

(2) Subject to sub-paragraphs (3) to (15), a doctor may, with the approval of the Health Authority, make an arrangement with a doctor who is on a medical list to transfer his obligations under the terms of service during part or all of the out of hours period to that other doctor.

(3) A doctor may make more than one out of hours arrangement; and may do so (for example) with different transferee doctors and in respect of different patients, different times and different parts of his practice area.

(4) A doctor may retain responsibility for, or make separate out of hours arrangements in respect of, the provision of maternity medical services to patients with whom he has made an arrangement under regulation 31.

(5) Nothing in this paragraph prevents a doctor from retaining or resuming his obligations in relation to named patients.

(6) Where a doctor is on the obstetric list, he shall not make an out of hours arrangement in respect of the provision of maternity medical services to patients with whom he has made an arrangement under regulation 31, unless the transferee doctor is also on an obstetric list.

(7) An application to the Health Authority for approval shall be made in writing and shall state—

- (a) the name and address of the proposed transferee doctor and, where his name is included in the list of another Health Authority, the number of patients on his list;
- (b) the periods during which the doctor's obligations under these terms of service are to be transferred;
- (c) how the proposed transferee doctor intends to meet the doctor's obligations during the periods specified under paragraph (b);
- (d) the arrangements for the transfer of the doctor's obligations under these terms of service to and from the transferee doctor at the beginning and end of the periods specified under paragraph (b);
- (e) whether the proposed arrangement includes the doctor's obligations in respect of maternity medical services;
- (f) how long the proposed arrangements are intended to last and the circumstances in which the doctor's obligations under these terms of service during the periods specified under paragraph (b) would revert to him;
- (g) what arrangements are proposed to enable the doctor's patients to contact the proposed transferee doctor, and
- (h) where the proposed transferee doctor's name is included in the list of another Health Authority, whether—
 - (i) he has been notified under regulation 24(4) of the National Health Service (Service Committees and Tribunal) Regulations⁽³⁾ that the Tribunal intends to hold an inquiry under section 46 of the 1977 Act as to representations made in relation to him, or
 - (ii) he has been notified under section 42(5) of the Medical Act 1983⁽⁴⁾ that the Preliminary Proceedings Committee of the General Medical Council has decided that he should be referred to the Professional Conduct Committee or to the Health Committee.

(8) The Health Authority shall determine the application before the end of the period of 28 days beginning with the day on which the Health Authority received it.

⁽³⁾ Section 17 is substituted from 1st April 1996 by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 8.

⁽⁴⁾ S.I. 1992/664, amended by 1993/2972, 1994/634 and 1995/3091.

(9) The Health Authority shall grant approval to a proposed out of hours arrangement if it is satisfied—

- (a) having regard, in particular, to the interests of the doctor’s patients, that the arrangement is reasonable;
- (b) having regard, in particular, to all reasonably foreseeable circumstances that the arrangement is practicable and will work satisfactorily;
- (c) that it will be clear to the doctor’s patients how to seek personal medical services during the out of hours period; and
- (d) that if the arrangement comes to an end, the doctor has in place proper arrangements for the immediate resumption of his responsibilities,

and shall not refuse to grant approval without first consulting the Local Medical Committee.

(10) The Health Authority shall give notice to the doctor of its determination and, where it refuses an application, it shall send the doctor a statement in writing of the reasons for its determination and of the doctor’s right of appeal under sub-paragraph (11).

(11) A doctor may, before the end of the period of 30 days beginning with the day on which the Health Authority’s notification under sub-paragraph (10) was sent, appeal in writing to the Secretary of State against any refusal of an application under sub-paragraph (7).

(12) The Secretary of State may, when determining an appeal, either confirm the determination of the Health Authority or substitute his own determination for that of the Health Authority.

(13) The Secretary of State shall give notice to the doctor of his determination and shall in every case include with the notification a written statement of the reasons for the determination.

(14) Where the Health Authority (or, on appeal, the Secretary of State) has approved an out of hours arrangement and the name of the transferee doctor is not included in the Health Authority’s medical list, the Health Authority shall give notice of the approval and of the details of the arrangement to the Health Authority in whose list the name of the transferee doctor is included.

(15) Where the Health Authority (or, on appeal, the Secretary of State) has approved an out of hours arrangement—

- (a) the transferee doctor may himself employ or engage an assistant or deputy in respect of part or all of the period covered by the out of hours arrangement; and if he does so, paragraphs 19 to 26 shall apply as if he were the doctor for the purposes of those paragraphs; and
- (b) a transferee doctor shall not enter into any other out of hours arrangement in respect of the patients for whom he has accepted responsibility under this paragraph.

18B.—(1) Subject to paragraph 18C, where it appears to the Health Authority that it may no longer be satisfied of any of the matters referred to in sub-paragraphs (a) to (d) of paragraph 18A(9), it may give notice in writing to the doctor that it proposes to review the approval.

(2) On any review under sub-paragraph (1), the Health Authority shall allow the doctor a period of 30 days, beginning with the day on which it sent the notice, within which to make representations in writing to the Health Authority.

(3) After considering any representations made in accordance with sub-paragraph (2), the Health Authority may determine either to continue or to withdraw its approval but shall not withdraw its approval without first consulting the Local Medical Committee.

(4) The Health Authority shall give notice to the doctor of a determination under sub-paragraph (3).

(5) Where the Health Authority withdraws its approval, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (6).

(6) A doctor may, within the period of 30 days beginning with the day on which the notice referred to in sub-paragraph (4) was sent, appeal in writing to the Secretary of State against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 18A shall apply to any such appeal.

(7) Subject to paragraph 18C(1), where the Health Authority withdraws approval, the withdrawal shall not take effect until the end of the period of two months beginning with the date on which the notice referred to in sub-paragraph (4) was sent or, where there is an appeal under sub-paragraph (6) and the appeal is dismissed, the date on which the doctor receives notice of the dismissal of the appeal whichever is the later.

18C.—(1) Where it appears to the Health Authority, whether after a review under paragraph 18B or not, that it is necessary in the interests of the doctor's patients to withdraw its approval immediately, it may withdraw its approval.

(2) The Health Authority shall give notice to the doctor of a determination under sub-paragraph (1) and shall include with the notice a statement of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (4).

(3) An immediate withdrawal of approval under paragraph (1) shall take effect on the day on which the notice referred to in sub-paragraph (2) is received by the doctor.

(4) A doctor may, within the period of 30 days beginning with the day on which the notice referred to in sub-paragraph (2) was sent, appeal in writing to the Secretary of State against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 18A shall apply to any such appeal.”

(6) In paragraph 19 (which says that doctors must generally give treatment personally), in sub-paragraph (1), after “Subject to the following provisions of this paragraph” insert “and to any out of hours arrangement made under paragraph 18A(2)”.

(7) After paragraph 47 (practice leaflet), insert the following new paragraphs—

“Complaints

47A.—(1) Subject to sub-paragraph (2), a doctor shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 47B referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The practice based complaints procedure to be established by a doctor may be such that it also deals with complaints made in relation to one or more other doctors.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the doctor's provision of general medical services and within the responsibility or control of—

- (a) the doctor;
- (b) any other doctor either employed by him or engaged as his deputy;
- (c) a former partner of the doctor;
- (d) an employee of the doctor other than one falling within paragraph (b),

and in this paragraph and paragraph 47B, references to complaints are to complaints falling within this sub-paragraph.

(4) A complaint may be made on behalf of a patient or former patient with his consent, or—

- (a) where the patient is a child—
 - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child, or
 - (ii) where the child is in the care of an authority to whose care he has been committed under the provisions of the Children Act 1989⁽⁵⁾ or is in the care of a voluntary organisation, by that authority or voluntary organisation, or
 - (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.
- (5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in paragraph (a)(ii) of sub-paragraph (4), by the authority or voluntary organisation.
- (6) A practice based complaints procedure shall comply with the following requirements—
- (a) the doctor must specify a person (who need not be connected with the practice and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
 - (b) all complaints must be—
 - (i) recorded in writing,
 - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was made or, where that is not possible, as soon as reasonably practicable, and
 - (iii) properly investigated;
 - (c) within the period of 10 days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was received by the person specified under paragraph (a) or, where that is not possible, as soon as reasonably practicable, the complainant must be given a written summary of the investigation and its conclusions;
 - (d) where the investigation of the complaint requires consideration of the patient's medical records, the person specified under paragraph (a) must inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the doctor or a partner, a deputy or an employee of the doctor, and
 - (e) the doctor must keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' medical records.
- (7) A doctor shall inform his patients about the practice based complaints procedure which he operates and the name (or title) of the person specified under paragraph (6)(a).

47B.—(1) A doctor shall cooperate with any investigation of a complaint by the Health Authority in accordance with the procedures which it operates in accordance with directions given under section 17 of the Act⁽⁶⁾, whether the investigation follows one under the practice based complaints procedure or not.

- (2) The cooperation required by sub-paragraph (1) includes—
 - (a) answering questions reasonably put to the doctor by the Health Authority;

(5) 1983 c. 54.

(6) 1989 c. 41.

- (b) providing any information relating to the complaint reasonably required by the Health Authority, and
- (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given) if the doctor's presence at the meeting is reasonably required by the Health Authority."

Amendment of Schedule 12 to the principal Regulations

6. In Schedule 12 to the principal Regulations (information to be included in practice leaflets), after paragraph 9 insert—

“9A. Where the doctor has made an out of hours arrangement under paragraph 18A(2) of Schedule 2, the name and address of the doctor with whom the arrangement has been made, the times during which it applies and details of the arrangements whereby the doctor's patients may contact the doctor concerned.”.

Amendment of Schedule 13 to the principal Regulations

7. In Schedule 13 to the principal Regulations (information to be provided in annual reports) at the end insert—

“4. The number of complaints received in accordance with paragraph 47A of Schedule 2.”.

Signed by authority of the Secretary of State for Health

Department of Health
11th March 1996

Gerald Malone
Minister of State,

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (General Medical Services) Regulations 1992 (“the principal Regulations”) which regulate the terms on which general medical services are provided under the National Health Service Act 1977.

Regulations 2 and 3 contain minor and drafting amendments which are consequential on the substantive amendments contained in regulation 5. Regulation 4 is a drafting amendment consequential upon changes made in the regulations governing disciplinary proceedings in relation to general medical practitioners by the National Health Service (Service Committees and Tribunal) Amendment Regulations 1996 (S.I. 1996/703).

Regulation 5 amends doctors’ terms of service in two ways. First, provision is made to enable a doctor to transfer part or all of his obligations under the terms of service to another doctor at night, at weekends and on public holidays. Such an arrangement can only be made with the approval of the Health Authority. The regulations require a doctor to provide the Health Authority with details of the proposed arrangement and they require the Health Authority to have regard to the interests of the doctor’s patients as well as the practicability of the proposed arrangement in deciding whether to approve it. There is also provision for a doctor to appeal against the Health Authority’s refusal to approve a proposed arrangement, for the Health Authority to review any approval and, where necessary in the interests of the doctor’s patients, to withdraw its approval immediately.

Secondly, the terms of service are amended to require a doctor to establish and operate a system to deal with complaints. There is provision about who may complain, what they may complain about, how such complaints are to be dealt and the publicity which a doctor must give to his complaints procedure. The terms of service changes also require a doctor to cooperate with complaints procedures which are operated by Health Authorities.

The terms of service are also amended to include a definition of “notice” as “a notice in writing”.

Regulation 6 requires doctors to include details of any new out of hours arrangements in their practice leaflets.

Regulation 7 requires doctors to include the number of complaints received under the new procedures in the annual reports which they must submit to their Health Authority.