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STATUTORY INSTRUMENTS

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**1996 No. 748 (S.81)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Fund-Holding Practices) (Scotland) Amendment Regulations 1996**

<i>Made</i>	- - - -	<i>8th 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, 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 1996 and shall come into force on 1st April 1996.

(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) after “relevant Health Board” there shall be inserted—

““savings” shall be construed in accordance with regulation 20;”.

**Substitution of regulation 8 of the principal Regulations**

3. For regulation 8 of the principal Regulations (withdrawal or death of a member of a fund-holding practice) there shall be substituted:—

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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 and 1995/1571.

“8.—(1) Where a member of a fund-holding practice retires or dies, the recognition of the remaining members of the fund-holding practice shall not be affected if the conditions specified in Schedule 2 in relation to the kind of practice in question continue to be fulfilled in relation to the practice.

(2) Where a member of a fund-holding practice withdraws from the fund-holding practice in circumstances other than death or retirement, the remaining members of the practice shall give notice to the Health Board stating the date on which the withdrawal is to take or took effect and paragraphs (3) to (6) apply.

(3) Where the remaining members of the fund-holding practice or one or more members who withdraw from the fund-holding practice wish to continue as a recognised fund-holding practice, they shall apply to the Secretary of State for recognition as a fund-holding practice in accordance with regulation 2, and in those circumstances—

- (a) where all the medical practitioners making the application have been members of a recognised fund-holding practice for at least one year, paragraph 1 of Schedule 1 shall not apply;
- (b) subject to regulation 13, they shall continue to be recognised or, as the case may be, shall be treated as recognised until the application is determined; and
- (c) if, as a result, there is more than one recognised fund-holding practice, the allotted sum of the original fund-holding practice shall be divided between them in proportions calculated by reference to the respective list sizes of the members of the practices.

(4) A member of a fund-holding practice who is a partner of another member of the fund-holding practice may not withdraw from the fund-holding practice unless he also ceases to be a partner of that other member.

(5) Where a member of a fund-holding practice (in this paragraph, and in paragraph (6) referred to as “the former member”) withdraws from the practice and—

- (a) he continues to be included in the medical list of the Health Board, and
- (b) on the date on which the withdrawal takes effect, there are savings in the fund-holding account,

such proportion of those savings as the remaining members of the fund-holding practice and the former member may agree (or where they do not agree, a proportion calculated by reference to their respective list sizes) shall be transferred to the Health Board.

(6) The Health Board shall apply that part of the savings transferred to it as mentioned in paragraph (5) in accordance with regulation 20 for such purposes as the former member of the fund-holding practice may require, until such time as he ceases to retain responsibility for at least half the patients who were on his list at the time of his withdrawal from the fund-holding practice.”.

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

4. In regulation 9 of the principal Regulations (renunciation of recognition) after paragraph (2) there shall be added—

“(3) Health Boards shall at least once in every year send a notice to the Secretary of State stating how many fund-holding practices have renounced recognition during that year.”.

#### **Amendment of regulation 10 of the principal Regulations**

5.—(1) Regulation 10 of the principal Regulations (consequences of renunciation of recognition) shall be amended as follows.

(2) After paragraph (2) there shall be inserted the following new paragraph:—

“(2A) Where, on the date when the renunciation of recognition takes effect, the members of the fund-holding practice have any outstanding liabilities and the entire allotted sum payable in respect of the financial year ending on that date has been spent, such liabilities shall be met from any accumulated savings.”.

(3) In paragraph 3 the words “, other than any liabilities in relation to the application of the allotted sum for the purposes specified in regulation 20 (savings from the allotted sum),” shall be omitted.

(4) For paragraph 4 there shall be substituted—

“(4) If after a notice under the preceding paragraph has been sent, part of the allotted sum remains in the fund-holding account, the former fund-holding practice shall apply that sum as specified in regulation 20 for the benefit of the patients of the members of the former fund-holding practice in such proportions as the members of the former fund-holding practice may agree or, where they do not agree, in proportion to the respective list sizes of the members of the former fund-holding practice.”.

#### **Amendment of regulation 16 of the principal Regulations**

6. In regulation 16(4) of the principal Regulations (payment for drugs, medicines and listed appliances) for the word “price”, where it occurs on the first occasion only, there shall be substituted the words “net ingredient cost”.

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

7. In regulation 17(2B) of the principal Regulations (payment for goods and services), for the words “Where such notice has been given,” there shall be substituted the following:—

“Where—

- (a) the members of the practice have given notice as mentioned in paragraph (2A); or
- (b) a patient of a member of a practice either refers herself for such services to a Health Board or an NHS Trust or is referred by a doctor who is not a member of the fund-holding practice,”.

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

8. In regulation 19 of the principal Regulations (payment of salaries)—

- (a) in paragraph (1) for the words “paying the salaries of those employees” there shall be substituted the words “making payments (including any redundancy payments which a member of the practice is required to make by virtue of the Employment Protection (Consolidation) Act 1978(3)) to those employees”;
- (b) in paragraph (2)—
  - (a) for the words “salary of” where they occur on both occasions there shall be substituted the words “expenses of employing”; and
  - (b) for the words “of any person” there shall be substituted the words “any person”;
- (c) in paragraph (4) at the end there shall be added the words “or as mentioned in regulation 19A(4)(c)”;
- (d) after paragraph (4), the following paragraph shall be inserted:—

“(5) The members of the fund-holding practice may apply the allotted sum for the purpose of training employees of members of the practice, provided that the training will

be beneficial to the patients of the members of the practice and its cost represents value for money”.

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

**9.**—(1) Regulation 19A of the principal Regulations (payment for management expenses) shall be amended as follows.

(2) After paragraph (3) there shall be inserted the following new paragraphs:—

“(3A) Where the members of the practice propose to spend the management allowance in accordance with either paragraph (4)(d) for the purpose of buying computers or paragraph 4(i) they shall first obtain the written consent of the Health Board.

(3B) The Health Board shall consent to the fund-holding practice’s proposals to buy computers provided it is satisfied that the equipment proposed is suitable for the needs of the fund-holding practice and represents value for money.

(3C) The Health Board shall consent to the fund-holding practice’s proposals to spend its management allowance on rent provided it is satisfied that existing accommodation is being properly used, the proposed accommodation is suitable and that the proposed rent represents value for money.

(3D) Where the cost of a computer is less than that agreed with the Health Board, any savings shall be spent only in accordance with regulation 20.”.

(3) In paragraph (4)(d) the words from “(excluding computers)” to the end shall be deleted and there shall be inserted the words “(including computers)”.

(4) The word “and” immediately following paragraph (4)(f) shall be deleted.

(5) After paragraph (4)(g) there shall be inserted the following new sub-paragraphs:—

“(h) office expenses, including postage, stationery and telephone charges, which are necessarily incurred in connection with the management of the allotted sum; and

(i) the rent payable on practice premises used by staff employed in connection with the management of the allotted sum.”.

#### **Amendment of regulation 20 of the principal Regulations**

**10.**—(1) Regulation 20 of the principal Regulations (savings from the allotted sum) shall be amended as follows.

(2) For paragraph (2)(b) there shall be substituted—

“(b) in relation to any premises from which the members of the practice carry on their practice—

(i) improvements to the premises, including alterations to or decoration of the premises and the purchase of furniture and furnishings; and

(ii) building an extension provided that no acquisition of land is involved.”;

(3) After paragraph (3) there shall be inserted the following new paragraphs:—

“(4) Where the Health Board refuses its consent under paragraph (3), it shall send to the members of the fund-holding practice a notice stating the reasons for its refusal and informing them of their right to appeal to the Secretary of State under paragraph (5).

(5) The members of the fund-holding practice may, within 28 days beginning with the day on which the notice referred to in paragraph (4) was sent, appeal to the Secretary of State against the Health Board’s refusal of consent under paragraph (3).

(6) An appeal to the Secretary of State shall be made in writing and shall include a statement of the grounds of appeal.

(7) On any appeal under paragraph (5), the Secretary of State—

(a) may, if he thinks fit, hold an oral hearing of the appeal and in such a case shall—

(i) appoint one or more persons to hear the appeal and to report to him on it; and

(ii) not less than 14 days before the date fixed for the hearing, give notice in writing to the members of the fund-holding practice and to the Health Board; and

(b) in determining the appeal, shall either confirm or reverse the decision of the Health Board and shall communicate his decision, together with the reasons for it, to the members of the fund-holding practice and to the Health Board.”.

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

**11.** Paragraph 5 of Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice) shall be amended by inserting at the end the words—

“and also provides for the determination of how much of the allotted sum, including any savings, is to be allocated to each member of the practice.”.

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

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

(2) For paragraphs 4 and 5, there shall be inserted the following paragraphs:—

“**4.** The allotted sum is applied in accordance with regulations 16 to 20.

**5.** The members of the fund-holding practice are, and in the opinion of the Secretary of State will continue to be, capable of managing the allotted sum effectively and efficiently.”.

(3) After paragraph 12 there shall be inserted the following new paragraph:—

“**13.** The members of the fund-holding practice secure that the procedure to investigate complaints established and operated under paragraph 12A, and the requirement to co-operate with investigation of complaints by Health Boards under paragraph 12B, of Schedule 1 to the National Health Service (General Medical Services) (Scotland) Regulations 1995(4) apply in relation to complaints about their use of the allotted sum.”.

St Andrew’s House,  
Edinburgh  
8th March 1996

*James Douglas-Hamilton*  
Minister of State, Scottish Office

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(4) S.I.1995/416; relevant amending instrument is S.I. 1996/842.

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

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## EXPLANATORY NOTE

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

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

Regulation 3 amends regulation 8 (concerning the withdrawal or death of a member of a fund-holding practice) of the 1993 Regulations to provide that where a member of a fund-holding practice withdraws from the practice, a part of any savings accumulated by the practice may be applied by the Health Board for the benefit of his patients.

Regulation 5 amends regulation 10 (consequences of renunciation of recognition as a fund-holding practice) of the 1993 Regulations to require a former fund-holding practice to apply any accumulated savings to discharge its outstanding liabilities.

Regulation 7 amends regulation 17 (purchase of goods and services) of the 1993 Regulations to provide that where a patient of a fund-holding practice either refers herself or is referred by another doctor, who is not a member of the fund-holding practice, for services in connection with the termination of pregnancy, the Health Board shall meet the cost of those services.

Regulation 8 amends regulation 19 (payments of salaries) of the 1993 Regulations to make it clear that the allotted sum can be used for all employment costs including the cost of redundancy and training employees.

Regulation 9 amends regulation 19A (payment for management expenses) of the 1993 Regulations and extends the purposes on which the management allowance may be spent to include the purchase of computers, certain office expenses and rent payable on accommodation used to accommodate staff employed for fund-holding purposes. The written consent of the Health Board is required before the management allowance can be spent either on the purchase of computers or on rent.

Regulation 10 amends regulation 20 (savings from the allotted sum) of the 1993 Regulations and makes it clear that savings can be used to build extensions to fund-holders' premises.

The Regulations also make a number of amendments which are minor or consequential drafting amendment or procedural in nature.