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STATUTORY INSTRUMENTS

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**1997 No. 730**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (General Medical  
Services) Amendment Regulations 1997**

<i>Made</i>	- - - -	<i>10th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</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 1997 and shall come into force on 1st April 1997.

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

**Amendment of regulation 23 of the 1992 Regulations**

2. In regulation 23 of the 1992 Regulations (removal from doctor’s list), in paragraph 2(b), for “paragraph 13(1)(b)(ii)”, substitute “paragraph 13(5)(b)”.

**Arrangements for the provision of deputies**

3.—(1) Schedule 2 to the 1992 Regulations (terms of service for doctors) is amended as follows.

(2) In paragraph 1 (interpretation), the definition of “deputising service” is omitted.

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(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 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 by the Health Authorities Act 1995 (c. 17), 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, 1995/80, and 1996/702.

- (3) In paragraph 20(1) (which relates to the responsibility of doctors for their deputies)—
- (a) in paragraph (b), for “deputising service” substitute “organisation providing deputy doctors as mentioned in paragraph 22 with which he has entered into an arrangement in accordance with that paragraph”; and
  - (b) in paragraph (c), for “deputising service” substitute “such an organisation”.
- (4) For paragraphs 22 and 22A substitute the following new paragraphs—

“22.—(1) In this paragraph, “organisation providing deputy doctors” means a person who provides deputies to doctors and includes a body which—

- (a) consists only of doctors whose names are included in the list of a Health Authority and who arrange to act as deputies to each other and
- (b) keeps separate accounts in relation to such arrangements.

(2) Before entering into arrangements with an organisation providing deputy doctors for the provision of any deputy, a doctor shall—

- (a) obtain the written agreement of the organisation that any doctor it provides to him—
  - (i) will not be subject to a declaration under section 46(2)(c) of the Act or under any corresponding provision in force in Scotland or Northern Ireland that he is not fit to be engaged in any capacity in the provision of general medical services,
  - (ii) will not be suspended by direction of the Tribunal, other than in a case falling within section 49B(3) of the Act, and
  - (iii) will (unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training) be suitably experienced within the meaning of section 31 of the Act (other than by virtue of being a restricted services principal) or will have the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994; and
- (b) take all reasonable steps to satisfy himself that the service provided by the organisation (including its monitoring arrangements) will be adequate and appropriate having regard in particular to the interests of the doctor’s patients.

(3) A doctor shall notify the Health Authority of any arrangements he makes with an organisation providing deputy doctors.

(4) A doctor shall from time to time and at any time when there are grounds for doing so, take reasonable steps to satisfy himself that an organisation providing deputy doctors with which he has entered into arrangements for the provision of any deputy—

- (a) continues to comply with the agreement referred to in sub-paragraph (2)(a); and
- (b) continues to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).

(5) Subject to sub-paragraph (6), if the Health Authority so requests, a doctor shall furnish it with evidence that such an organisation is continuing—

- (a) to comply with the agreement mentioned in sub-paragraph (2)(a); or, as the case may be,
- (b) to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).

(6) A Health Authority shall not make a request for evidence under sub-paragraph (5) (b) unless—

- (a) it has reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b), and
- (b) it has consulted the Local Medical Committee.

(7) Subject to sub-paragraph (8), where in response to a request for evidence under sub-paragraph (5)(b) the Health Authority continues to have reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b), it shall give notice (in this paragraph referred to as a “remedial notice”) to the doctor specifying—

- (a) the grounds for its concern;
- (b) the remedial action which it considers necessary; and
- (c) the date before which such action must be taken.

(8) A Health Authority shall not issue a remedial notice under sub-paragraph (7) without first consulting the Local Medical Committee.

(9) Where a Health Authority issues a remedial notice under sub-paragraph (7), it shall also send a copy of that notice to any other doctor who has made arrangements with the same organisation.

(10) Where it appears to the Health Authority—

- (a) that an organisation providing deputy doctors with which a doctor has made arrangements for the provision of a deputy—
  - (i) is not complying with the agreement referred to in sub-paragraph (2)(a), or
  - (ii) has not taken the action specified in a remedial notice issued under sub-paragraph (7) within the time specified in that notice; or
- (b) that a doctor’s arrangement with such an organisation is such that the doctor’s patients are at risk,

it may give notice to the doctor requiring him to bring his arrangement with that organisation to an end either immediately or before such date as is stated in the notice.

**22A.** A doctor shall not engage another doctor as a deputy, or employ one as an assistant, unless the other doctor—

- (a) is suitably experienced within the meaning of section 31 of the Act (other than by virtue of being a restricted services principal); or
- (b) has the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994; or
- (c) is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training.”.

### **Amendment consequential on regulation 3**

**4.** In regulation 8 of the 1992 Regulations (local directory of family doctors) for paragraph (1) (h) substitute—

“(h) any arrangements for the provision of any deputy notified to the Health Authority under paragraph 22(3) of Schedule 2.”

### **Health promotion**

5.—(1) In Schedule 2 to the 1992 Regulations (terms of service for doctors), in paragraph 50 (annual reports), in paragraph (c) of sub-paragraph (2) “health promotion or” is omitted.

(2) In Schedule 13 to the 1992 Regulations (information to be provided in annual reports), in paragraph 4—

- (a) at the end of sub-paragraph (a) “and” is inserted; and
- (b) sub-paragraph (c) and the word “and” at the end of sub-paragraph (b) are omitted.

10th March 1997

*Stephen Dorrell*  
Secretary of State for Health

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## 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.

Regulation 2 is a drafting amendment.

Regulation 3 amends the doctors’ terms of service in relation to a doctor’s obligations where he uses the services of an organisation providing deputy doctors. While a doctor has to notify the Health Authority of any arrangements he may make with such an organisation, he no longer has to obtain the prior consent of the Health Authority. The Regulations require a doctor himself to ensure that the services provided by an organisation providing deputy doctors are adequate and appropriate and that its doctors are suitable qualified and trained and have not been either disqualified or suspended from practice by the NHS Tribunal. There is provision enabling the Health Authority to ask a doctor for evidence that he is complying with this obligation, to alert the doctor to any concerns it may have and, if need be, to require the doctor to bring his arrangement with an organisation providing deputy doctors to an end.

Regulation 4 is consequential upon regulation 3.

Regulation 5 removes information about a doctor’s health promotion activities from the list of information which doctors are required to include in their annual reports to Health Authorities.