
STATUTORY RULES OF NORTHERN IRELAND

2004 No. 156

The General Medical Services Transitional and Consequential Provisions (No. 2) (Northern Ireland) Order 2004

PART 2

TRANSITIONAL PROVISIONS RELATING TO GENERAL MEDICAL SERVICES

Application and interpretation of this Part

2.—(1) In this Part –

- (a) Articles 3 to 29 apply to a default contract or a general medical services contract entered into on or before 31st March 2004 with –
 - (i) an individual medical practitioner who has entered into the general medical services contract pursuant to an entitlement under Article 3 of the No. 1 Order or the default contract pursuant to Article 13 of that Order,
 - (ii) two or more individuals practising in partnership who have entered into the general medical services contract pursuant to an entitlement under Article 5 of that Order or the default contract pursuant to Article 13 of that Order, or
 - (iii) a company in which one or more of the legal and beneficial shareholders is, or are, on the date on which the general medical services contract is signed, providing general medical services under Article 56 of the 1972 Order;
- (b) Articles 30 and 31 apply to the contracts specified in sub-paragraph (a) and to a general medical services contract which takes effect immediately after a default contract with the same parties ceases to have effect; and
- (c) Article 32 applies to all general medical services contracts and default contracts entered into before 1st April 2005.

(2) Unless it is entered into with a person to whom the particular Article does not apply, a general medical services contract or a default contract which falls within paragraph (1) shall include, or be deemed to include, terms which have the effect specified in Articles 3 to 32.

(3) In this Part –

“relevant medical practitioner” means a medical practitioner who –

- (a) on 31st March 2004, or on the date on which a default contract or a general medical services contract is entered into, if earlier, is providing general medical services under Article 56 of the 1972 Order; and
- (b) on or before 31st March 2004 –
 - (i) has entered into a default contract or a general medical services contract as an individual medical practitioner or as one of two or more individuals practising in partnership; or

- (ii) is a legal and beneficial shareholder in a company which has entered into a general medical services contract;

“succeeding contractor” means the default contractor who is a party to the default contract or the general medical services contractor which is a party to the general medical services contract which –

- (a) a relevant medical practitioner has entered into either as an individual medical practitioner or as one of two or more individuals practising in partnership; or
- (b) has been entered into by a company in which a relevant medical practitioner is a legal and beneficial shareholder.

Applications for inclusion in lists of patients

3. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for inclusion in his list of patients pursuant to regulation 2 or 3(1) of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall, on 1st April 2004, be regarded as if it had been made to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 15 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

Acceptance of applications for inclusion in lists of patients

4.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had agreed to accept a person on his list of patients pursuant to paragraph 5 of Schedule 2 to the 1997 Regulations⁽¹⁾ but on 31st March 2004 he had not yet sent the signed medical card or the application to the Agency in accordance with sub-paragraph (3) of that paragraph, that acceptance shall be regarded on 1st April 2004 as an acceptance by the succeeding contractor and notification of that acceptance shall be sent by the succeeding contractor to the Board in accordance with –

- (a) the term of his general medical services contract which gives effect to paragraph 15(5) of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(2) In paragraph (1), “medical card” has the same meaning as in regulation 2(1) of the 2004 Regulations.

Removal from the list of patients at the request of the patient

5. Where, on or before 31st March 2004, the Agency had received notice from a patient under regulation 22(1)(a) of the 1997 Regulations that he wished to be removed from a relevant medical practitioner’s list of patients but on 31st March 2004 that removal had not yet taken effect in accordance with regulation 22(1)(b) of those Regulations, the removal shall take effect as a removal from the list of patients of the succeeding contractor as if it were a removal pursuant to a request received by the Board in accordance with –

- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 19 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of 14 days in the term which gives effect to paragraph 19(3) (b) shall be read as a reference to the period of 14 days after the date on which the request made under regulation 22(1)(a) of the 1997 Regulations was received by the Agency; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

(1) Paragraph 5 was amended by [S.R. 1999 No. 100](#)

Removal from the list of patients at the request of the relevant medical practitioner

6.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Agency that he wished to have a patient removed from his list of patients in accordance with paragraph 9 of Schedule 2 to the 1997 Regulations⁽²⁾ but that removal had, on 31st March 2004, not yet taken effect, paragraph (2) shall apply.

(2) Except where paragraph (3) applies, the removal shall take effect as a removal from the list of patients of the succeeding contractor under –

(a) the term of his general medical services contract which gives effect to paragraph 20(8) of Schedule 5 to the 2004 Regulations, subject to the modification that the reference in that term to the eighth day after the Board receives the notice shall be read as a reference to the eighth day after the Agency received the notice sent under paragraph 9 of Schedule 2 to the 1997 Regulations; or

(b) the equivalent term of his default contract, subject to a modification to the same effect.

(3) Where, on or before 31st March 2004, the Agency had been –

(a) informed by the relevant medical practitioner under paragraph 9(2) of Schedule 2 to the 1997 Regulations that he was treating the patient at intervals of less than seven days but had not yet been notified by him that the patient no longer needed such treatment; or

(b) notified by the relevant medical practitioner under that paragraph that the person no longer needed treatment at intervals of less than seven days,

paragraph (4) shall apply.

(4) In a case which falls within paragraph (3), the removal shall take effect as a removal from the list of patients of the succeeding contractor on –

(a) the date on which the Board receives notification of the registration of the person with another provider of essential services (or their equivalent);

(b) the eighth day after the Agency received notice from the relevant medical practitioner that the person no longer needed treatment at intervals of less than seven days; or

(c) the eighth day after the Board receives notice from the succeeding contractor that the patient no longer needs treatment at intervals of less than seven days,

whichever is the sooner.

Removals from the list of patients who are violent

7.—(1) This Article applies where, on or before 31st March 2004, a person had been removed from a relevant medical practitioner's list of patients with immediate effect pursuant to paragraph 10 of Schedule 2 to the 1997 Regulations but –

(a) confirmation in writing had not yet been given to the Agency under paragraph 10(2);

(b) reasonable steps had not yet been taken by the relevant medical practitioner under paragraph 10(4) to inform the person whose name had been removed; or

(c) written notice of the removal had not yet been given to the person by the Agency under regulation 18(8)(b) of the 1997 Regulations⁽³⁾.

(2) In a case to which paragraph (1)(a) applies written confirmation of the request for removal shall be given to the Board by the succeeding contractor within 7 days from the date on which notification was given under paragraph 10.

(2) Paragraph 9 was amended by [S.R. 1999 No. 100](#)

(3) Regulation 18(8)(b) was amended by [S.R. 1999 No. 100](#)

(3) In a case to which paragraph (1)(b) applies, reasonable steps shall be taken by the succeeding contractor to inform the patient of the request for removal.

(4) In a case to which paragraph (1)(c) applies, the Board shall send written notice of the removal to the patient.

Removals from the list of patients who have moved

8.—(1) Where, on or before 31st March 2004, the Agency had informed a patient and a relevant medical practitioner, in accordance with regulation 22(2) of the 1997 Regulations, that the medical practitioner was no longer obliged to visit and treat him but the 30 days referred to in that regulation had not yet expired, that information shall be regarded as if it had been given under –

- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 23 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of 30 days in the term which gives effect to paragraph 23(1)(c) shall be read as a reference to 30 days from the date of the information given by the Agency under regulation 22(2) of the 1997 Regulations; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

(2) Where, on or before 31st March 2004, the Agency had given a relevant medical practitioner notice in writing, in accordance with regulation 22(4) of the 1997 Regulations, that it intended to remove a person from the practitioner’s list of patients but the six months referred to in that regulation had not yet expired, that notice shall be regarded as if it had been given to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 24 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of six months in the term which gives effect to paragraph 24(a) shall be read as a reference to six months from the date of the notice given by the Agency under regulation 22(4) of the 1997 Regulations; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

Removals not reflected in the list of patients on 31st March 2004

9.—(1) This Article applies where –

- (a) on or before 31st March 2004, the removal of a patient from a relevant medical practitioner’s list of patients had taken effect under the 1997 Regulations; and
- (b) the Agency had not, on 31st March 2004, reflected that removal in the list of patients of that medical practitioner which it maintained under regulation 18 of the 1997 Regulations.

(2) In a case to which this Article applies, the Board shall –

- (a) remove the patient from the succeeding contractor’s list of patients as soon as reasonably practicable after 1st April 2004; and
- (b) if notification of the removal was required to be given to the medical practitioner or the patient under the provision of the 1997 Regulations relevant to the removal and had not been given on or before 31st March 2004, notify the succeeding contractor and the patient of the removal.

Applications for acceptance as a temporary resident

10. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for acceptance as a temporary resident under regulation 6 of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall be regarded as if it had been made to the succeeding contractor and shall be dealt with in accordance with –

- (a) the term of his general medical services contract which gives effect to paragraphs 16 and 17 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent terms of his default contract.

Acceptance of temporary residents

11.—(1) This Article applies where –

- (a) on or before 31st March 2004, a relevant medical practitioner had accepted a person as a temporary resident under paragraph 6(b) of Schedule 2 to the 1997 Regulations(4); and
- (b) on 31st March 2004, his responsibility for that patient had not yet been terminated under paragraphs 9 and 11 of that Schedule(5) or the period for which the person was accepted as a temporary resident had not yet come to an end.

(2) In a case to which this Article applies, the person shall, on 1st April 2004, be treated as if he had been accepted as a temporary resident by the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations, subject to the modification that reference to a period of three months in that term shall be read as a reference to a period of three months starting with and including the date on which the person was accepted as a temporary resident by the relevant medical practitioner under paragraph 6 of Schedule 2 to the 1997 Regulations; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

Termination of responsibility for temporary residents

12. Where, on or before 31st March 2004, a relevant medical practitioner had informed the Agency in writing in accordance with paragraph 11 of Schedule 2 to the 1997 Regulations that he wished to terminate his responsibility for a temporary resident but, on 31st March 2004, that responsibility had not yet terminated under paragraph 11 of that Schedule, the responsibility of the succeeding contractor for that temporary resident shall terminate seven days after the date on which the information under paragraph 11 of Schedule 2 to the 1997 Regulations was given to the Agency by the relevant medical practitioner.

Provision of immediately necessary treatment

13. Where, on 31st March 2004, a relevant medical practitioner was responsible for providing immediately necessary treatment to any person under paragraph 3(4) of Schedule 2 to the 1997 Regulations(6), the succeeding contractor shall continue to be responsible for providing such treatment to that person for the period for which the relevant medical practitioner would have been responsible if that paragraph had not been revoked.

Newly registered patients

- 14.**—(1) This Article applies where, on 31st March 2004, a patient specified in paragraph (2) –
- (a) was entitled to be invited to participate in a consultation under paragraph 16(1) of Schedule 2 to the 1997 Regulations(7); and
 - (b) had not been given such an invitation.

(4) Paragraph 6 was amended by [S.R. 1999 No. 100](#)
(5) Paragraph 9 was amended by [S.R. 1999 No. 100](#)
(6) Paragraph 3(4) was amended by [S.R. 1999 No. 100](#)
(7) Paragraph 16 was amended by [S.R. 1999 No. 100](#)

- (2) The patient referred to in paragraph (1) is a patient –
- (a) who, on or before 31st March 2004 –
 - (i) had applied for inclusion in a relevant medical practitioner’s list of patients under regulation 2 or 3 of the Choice Regulations and whose application had been accepted, or
 - (ii) had been assigned to a relevant medical practitioner’s list under regulation 4 of the Choice Regulations; and
 - (b) in respect of whom a Board had not granted deferment of the obligation to invite him to participate in a consultation under paragraph 16 of Schedule 2 to the 1997 Regulations.
- (3) A patient to whom this Article applies shall, on 1st April 2004, be regarded as a patient who falls within –
- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 4 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of his default contract.

Appointments system

15. Where, on or before 31st March 2004, a relevant medical practitioner had notified a Board under paragraph 34 of Schedule 2 to the 1997 Regulations –

- (a) that he intended to operate an appointments system; or
- (b) of any proposal to discontinue such a system,

that notice shall be regarded as a notice given by the succeeding contractor to the Board for the purposes of the term of the general medical services contract which gives effect to paragraph 76(c) of Schedule 5 to the 2004 Regulations or the equivalent term of the default contract.

Qualifications of performers

16.—(1) Where, on 1st April 2004, a succeeding contractor continues to employ or engage a person who on 31st March 2004 was employed or engaged in accordance with the requirements of Schedule 2 to the 1997 Regulations by the relevant medical practitioner in relation to whom he is a succeeding contractor, paragraphs (2) and (3) shall apply.

(2) The requirements to make checks contained in the terms of the general medical services contract which give effect to paragraphs 52(1)(b) and 53(1) of Schedule 5 to the 2004 Regulations, or in the equivalent terms of the default contract –

- (a) in a case where equivalent checks have previously been carried out in respect of that person by the relevant medical practitioner, shall not apply; or
- (b) in any other case, shall apply subject to the modification that the checks may be carried out at any time up to 30th June 2004.

(3) The requirement to obtain references in the term of the general medical services contract which gives effect to paragraph 54 of Schedule 5 to the 2004 Regulations, or in the equivalent term of the default contract, shall not apply if such references have been obtained, checked and found to be satisfactory by the relevant medical practitioner by whom the health care professional was employed or engaged on 31st March 2004.

Independent nurse prescribers and supplementary prescribers

17.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Board of any matters relating to an independent nurse prescriber or a supplementary prescriber under

paragraph 35A or paragraph 35B of Schedule 2 to the 1997 Regulations(8), the succeeding contractor shall not be required to notify the Board of those same matters under –

- (a) the term of his general medical services contract which gives effect to paragraph 60 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(2) In paragraph (1) “independent nurse prescriber” and “supplementary prescriber” have the same meaning as in paragraph 1 of Schedule 2 to the 1997 Regulations(9).

Patient records

18.—(1) Where –

- (a) on or before 31st March 2004, a Board or the Agency had requested a relevant medical practitioner to send it the records relating to a patient under paragraph 41 of Schedule 2 to the 1997 Regulations; and
- (b) on 31st March 2004 that request had not yet been complied with,

the records requested shall be sent by the succeeding contractor to the Board as soon as possible.

(2) Where, on or before 31st March 2004, a relevant medical practitioner had been informed of the death of a patient on his list by the Agency or had otherwise learned of the death of such a patient but on 31st March 2004 had not yet sent that patient’s records to the Agency in accordance with paragraph 41(e) of Schedule 2 to the 1997 Regulations, those records shall be sent to the Board by the succeeding contractor –

- (a) in a case in which the relevant medical practitioner was informed of the death by the Agency, within 14 days of the date on which he was so informed; or
- (b) in any other case, within one month of the date on which the relevant medical practitioner learned of the death.

Rights of entry

19.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a written request for inspection of his practice premises under paragraph 33(b) of Schedule 2 to the 1997 Regulations but, on 31st March 2004, no inspection had yet taken place pursuant to that request, the request shall, on 1st April 2004, be regarded as notice of an intended entry to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 83 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(2) In determining whether reasonable notice was given of any entry to the practice premises following a notice referred to in paragraph (1), regard shall be had to the date on which the request under paragraph 33(b) of Schedule 2 to the 1997 Regulations was made.

Refusal of approval of premises under paragraphs 37 and 37A of Schedule 2 to the 1997 Regulations

20.—(1) Where, on or before 31st March 2004, a Board had notified a relevant medical practitioner under paragraph 36(12) of Schedule 2 to the 1997 Regulations of its refusal of an application made under –

(8) Paragraph 35A was inserted by S.R. 2001 No. 167 and paragraph 35B was inserted by S.R. 2003 No. 447

(9) These definitions were inserted into paragraph 1 by S.R. 2003 No. 447

- (a) paragraphs 36(1) or (17) of that Schedule in relation to any place at which he was to be available; or
- (b) paragraphs 37(1) or (6) of that Schedule in relation to the treatment of patients other than at his practice premises,

paragraphs (2) and (3) shall apply.

(2) Where, on 31st March 2004, the time for appealing against the refusal specified in paragraph 36(13) of Schedule 2 to the 1997 Regulations had not expired and no appeal had yet been made, the time for appealing shall continue as if paragraph 36 and, if applicable, paragraph 37 of that Schedule had not been revoked.

(3) Where –

- (a) on 31st March 2004, the relevant medical practitioner had appealed in writing against that refusal under paragraph 36(13) of Schedule 2 to the 1997 Regulations but the appeal had not been determined or withdrawn; or
- (b) after 31st March 2004, an appeal is made pursuant to paragraph (2),

that appeal shall be dealt with, or continue to be dealt with, as if paragraph 36 and, if applicable, paragraph 37 of that Schedule had not been revoked.

(4) Where an appeal dealt with under paragraph (3) is successful, the Board shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

(5) A variation agreed by the Board pursuant to paragraph (4) shall have effect –

- (a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and
- (b) only if it is in writing and signed by or on behalf of the Board and the succeeding contractor.

Withdrawal of approval of premises under paragraph 37 of Schedule 2 to the 1997 Regulations

21.—(1) Where –

- (a) on or before 31st March 2004, a Board had notified a relevant medical practitioner of withdrawal of its approval of premises under paragraph 37(10) of Schedule 2 to the 1997 Regulations; and
- (b) on 31st March 2004, the time for appealing specified in sub-paragraph (11) of that paragraph had not expired and no appeal had yet been made,

the time for appealing shall continue as if paragraph 37 of Schedule 2 to the 1997 Regulations had not been revoked.

(2) Where –

- (a) on or before 31st March 2004, the relevant medical practitioner had appealed in writing against a withdrawal of approval under paragraph 37(11) of Schedule 2 to the 1997 Regulations but the appeal had not been determined or withdrawn; or
- (b) after 31st March 2004, an appeal is made pursuant to paragraph (1),

that appeal shall be dealt with or continue to be dealt with as if paragraph 36 and, if applicable, paragraph 37 of Schedule 2 to the 1997 Regulations were still in operation.

(3) Where an appeal dealt with under paragraph (2) is successful, the Board shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

(4) A variation agreed by the Board pursuant to paragraph (3) shall have effect –

- (a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and
- (b) only if it is in writing and signed by or on behalf of the Board and the succeeding contractor.

Investigation of outstanding complaints

22.—(1) Where, on 31st March 2004 –

- (a) a complaint had been made under paragraph 52 of Schedule 2 to the 1997 Regulations by or on behalf of a patient or former patient of a relevant medical practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 52 had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 52 had not been revoked.

(2) Where, on 31st March 2004 –

- (a) a complaint had been made under paragraph 52 of Schedule 2 to the 1997 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 52 had not concluded,

that complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 52 had not been revoked.

(3) The persons referred to in paragraph (2) are –

- (a) the person who was the former partner of the medical practitioner on whose list of patients the complainant was included, if he meets the requirements in paragraph (4);
- (b) if the person specified in paragraph (a) satisfies the Board on whose medical list his former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him, that Board; or
- (c) in any other case, the Board on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.

(4) The requirements referred to in paragraph (3) are that the former partner –

- (a) has or have entered into a default contract or a general medical services contract, as an individual medical practitioner or as one of two or more individuals practising in partnership, with the Board on whose medical list his former partner was included for the purposes of providing general medical services to the complainant; or
- (b) is a legal and beneficial shareholder in a company which has entered into a general medical services contract with that Board.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall –

- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
- (b) if they are unable to reach agreement, refer the matter to the Board on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Board shall investigate the complaint itself.

Complaints relating to general medical services made after 31st March 2004

23. The complaints procedure established and operated by a succeeding contractor under –
- (a) the term of his general medical services contract which gives effect to paragraph 84 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of the default contract,

shall apply to any complaint which a patient or former patient of the relevant medical practitioner to whom he is a succeeding contractor could have made (but did not make) on or before 31st March 2004 under paragraph 52 of Schedule 2 to the 1997 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract.

Reports to a medical officer

24.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a request for information or an inquiry from a medical officer (or an officer of the Department for Social Development on its behalf or at its direction) under paragraph 54 of Schedule 2 to the 1997 Regulations but, on 31st March 2004, he had not yet responded to that request or inquiry, the succeeding contractor shall respond as if the request or inquiry had been made under –

- (a) the term of his general medical services contract which gives effect to paragraph 74 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of his default contract.
- (2) In this Article, “medical officer” means a medical practitioner who is –
- (a) employed or engaged by the Department for Social Development; or
 - (b) provided by an organisation in pursuance of a contract entered into with the Department for Social Development.

Inquiries about prescriptions and referrals

25. Where, on or before 31st March 2004, a relevant medical practitioner had received an inquiry about prescriptions or referrals from a Board under paragraph 55 of Schedule 2 to the 1997 Regulations but had not yet responded to that inquiry, the succeeding contractor shall respond as if the inquiry had been made under –

- (a) the term of his general medical services contract which gives effect to paragraph 73 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

Arrangements with organisations providing deputy doctors

- 26.—(1) Where –
- (a) on 31st March 2004 –
 - (i) a Board had, on or before that date, issued a remedial notice to a relevant medical practitioner under paragraph 26(7) of Schedule 2 to the 1997 Regulations⁽¹⁰⁾; and
 - (ii) the date specified in the notice as the one before which remedial action should be taken had not yet been reached; and
 - (b) on 1st April 2004, the arrangements covered by the remedial notice are continuing in the form of a sub-contract with the succeeding contractor,

(10) Paragraph 26 was amended by [S.R. 1998 No. 9](#) and [S.R. 1999 No. 100](#)

the remedial notice issued under paragraph 26(7) of Schedule 2 to the 1997 Regulations shall be regarded as a remedial notice served in the same terms on the succeeding contractor on 1st April 2004 under the term of his general medical services contract which gives effect to paragraph 107(1) of Schedule 5 to the 2004 Regulations (or under the equivalent term of his default contract).

(2) A remedial notice deemed to have been served on the succeeding contractor pursuant to paragraph (1) shall not count as a remedial notice for the purposes of the term of the general medical services contract which gives effect to paragraph 107(6) of Schedule 5 to the 2004 Regulations (or for the purposes of the equivalent term of the default contract).

(3) In this Article, “remedial notice” means, in relation to a notice issued before 1st April 2004, a notice issued under paragraph 26(7) of Schedule 2 to the 1997 Regulations and, in relation to a notice issued after that date, a notice served under the term of the contract which gives effect to paragraph 107(1) of Schedule 5 to the 2004 Regulations or (under the equivalent term of the default contract).

Notification of sub-contracts under general medical services contracts

27.—(1) Where –

- (a) on 31st March 2004, a relevant medical practitioner had in place –
 - (i) arrangements for the engagement of a deputy of which he had informed the Board under paragraph 25(1) of Schedule 2 to the 1997 Regulations, or
 - (ii) arrangements he had made with an organisation providing deputy doctors of which he had notified the Board under paragraph 26(3) of that Schedule and in relation to which the Board had not served a notice under paragraph 26(10) of that Schedule; and
- (b) the succeeding general medical services contractor wishes to continue those arrangements after 31st March 2004 in the form of a sub-contract to which paragraph 64 of Schedule 5 to the 2004 Regulations applies,

any requirement for the succeeding contractor to notify the Board of his intention to enter into that sub-contract contained in the term of his general medical services contract which gives effect to paragraph 64(1)(b) of Schedule 5 to the 2004 Regulations shall not apply, unless the date of termination of the arrangements is extended beyond the date which applied to them on 31st March 2004 or there is a material variation in the nature of those arrangements.

(2) In this Article –

“deputy” has the meaning given in paragraph 1 of Schedule 2 to the 1997 Regulations; and
“organisation providing deputy doctors” has the same meaning as in paragraph 26(1) of that Schedule.

Practice leaflet

28.—(1) This Article applies where a relevant medical practitioner had compiled a practice leaflet which met the requirements of paragraph 51 of Schedule 2 to the 1997 Regulations and that leaflet was, on 31st March 2004, available to patients on his list.

(2) In the circumstances to which this Article applies, the practice leaflet made available to patients by –

- (a) the succeeding contractor; or
- (b) a general medical services contractor who enters into a general medical services contract before 31st July 2004 which takes effect immediately after his default contract with the same Board ceases to have effect,

need not, until 1st August 2004, include all the information specified in the term of the general medical services contract which gives effect to Schedule 7 to the 2004 Regulations (or in the equivalent term of the default contract) provided that, from the date of commencement of the contract until the practice leaflet does so comply, the general medical services contractor or the default contractor makes available to patients in written form the information specified in paragraph (3).

- (3) The information referred to in paragraph (2) is –
- (a) the services available under the general medical services contract or the default contract;
 - (b) the opening hours of the practice premises and the method of obtaining access to services throughout the core hours;
 - (c) the arrangements for services in the out of hours period (whether or not provided by the general medical services contractor or the default contractor) and how the patient may contact such services; and
 - (d) if the services in sub-paragraph (c) are not provided by the general medical services contractor or the default contractor, the fact that the Board which is a party to the general medical services contract or the default contract is responsible for commissioning the services and the name, address and telephone number of that Board.
- (4) In this Article, “practice leaflet” –
- (a) in relation to the period before 1st April 2004, has the meaning given in paragraph 51 of Schedule 2 to the 1997 Regulations; and
 - (b) in relation to the period from 1st April 2004 has the meaning given in regulation 2(1) of the 2004 Regulations.

Medical examination of medical practitioners

- 29.** Where, on or before 31st March 2004 –
- (a) a Board had required a relevant medical practitioner to be medically examined under regulation 24(5) of the 1997 Regulations; and
 - (b) that medical examination had not yet taken place,

the requirement shall, on 1st April 2004, unless the Board notifies him otherwise in writing, be regarded as a request made to that medical practitioner for him to be medically examined on the grounds that he is incapable of adequately providing services under the succeeding contract and arrangements for the medical examination shall, with the consent of the medical practitioner, continue to be made by the Local Medical Committee for the area of the Board which is a party to the succeeding contract, pursuant to the function conferred on that committee by regulation 27 of the 2004 Regulations.

Patients not seen within three years

30. The term of a general medical services contract which gives effect to paragraph 5 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to a consultation or clinic provided by the general medical services contractor (or the default contractor) included a reference to a consultation or clinic provided by –

- (a) the relevant medical practitioner in relation to whom he is a succeeding contractor; or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, the contractor who held that default contract.

Patients aged 75 years and over

31. The term of a general medical services contract which gives effect to paragraph 6 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to participating in a consultation under that term included a reference to participating in a consultation under –

- (a) paragraph 18 of Schedule 2 to the 1997 Regulations; or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, under the term of the default contract which was equivalent to paragraph 6 of Schedule 5 to the 2004 Regulations.

Arrangements for GP Registrars

32.—(1) Where, before 1st April 2005, a general medical services contractor or a default contractor employs a GP Registrar for the purpose of being trained by a GP Trainer, the requirement for the general medical services contractor or the default contractor to have the agreement of the Department to that employment in –

- (a) the term of the general medical services contract which gives effect to paragraph 59 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of the default contract,

shall not apply.

(2) In this Article, “GP Registrar” and “GP Trainer” have the same meaning as in regulation 2(1) of the 2004 Regulations.

Refund of fees paid under paragraph 43(e) of Schedule 2 to the 1997 Regulations

33. Where, on 31st March 2004, a patient had paid a fee to a medical practitioner under paragraph 43(e) of Schedule 2 to the 1997 Regulations but –

- (a) the period for applying for a refund of that fee under paragraph 44(1) of that Schedule had not yet expired; or
- (b) an application for refund of the fee had been made but not yet determined,

the period for applying for a refund and the powers of the Board in dealing with any application for a refund shall continue as if paragraph 44(1) of that Schedule had not been revoked.

Annual reports

34. Notwithstanding the revocation of the 1997 Regulations, any medical practitioner to whom paragraph 56 of Schedule 2 to those Regulations (annual reports) applied shall, by 30th June 2004, provide, either individually or as a member of a partnership, to the Board on whose medical list he appeared on 31st March 2004, an annual report in respect of the period of 12 months ending on 31st March 2004 which includes –

- (a) the number of complaints received in accordance with paragraph 52 of Schedule 2 to the 1997 Regulations; and
- (b) if the Board, having considered whether the information is available to it from another source and having consulted the Local Medical Committee, so requests, the information specified in paragraph 3 of Schedule 13 to those Regulations.

Determination of question whether a substance is a drug

35.—(1) Where, on 31st March 2004, a Board had, under regulation 40(7) of the 1997 Regulations, informed a medical practitioner of its decision that a substance ordered by him was not a drug but –

- (a) the medical practitioner had not given notice of appeal under paragraph (8) of that regulation; and
- (b) the time for appealing in that paragraph had not yet expired,

the time for appealing shall continue as if regulation 40 of the 1997 Regulations were still in operation.

(2) Where –

- (a) on 31st March 2004, a medical practitioner had given notice of appeal against a decision of a Board under regulation 40 of the 1997 Regulations but that appeal had not been determined or withdrawn; or
- (b) a medical practitioner has given notice of such an appeal after 31st March 2004, pursuant to paragraph (1),

that appeal shall continue to be dealt with as if regulation 40 of the 1997 Regulations were still in operation.

Entry on to primary medical services performers list of persons whose application has been granted under regulation 12 of the 1997 Regulations

36. Where a Board –

- (a) had, on 31st March 2004, granted the application of a medical practitioner under regulation 12 of the 1997 Regulations⁽¹¹⁾ but had not yet entered his name on its medical list in accordance with regulation 12(2) of those Regulations; and
- (b) intends to enter into a default contract or general medical services contract with two or more individuals practising in partnership one of whom is the person so approved,

it shall add that person's name to its primary medical services performers list.

Outstanding appeals against refusal of an application under regulations 9, 10, or 11 of the 1997 Regulations

37.—(1) Where, on 31st March 2004 –

- (a) a Board had refused an application from a medical practitioner under regulation 9, 10 or 11 of the 1997 Regulations; and
- (b) he had a right of appeal under regulation 15 of the 1997 Regulations and the time for appealing had not yet expired,

the time for appealing shall continue as if that regulation had not been revoked.

(2) Where a medical practitioner whose application to a Board had not been granted under regulation 12 of the 1997 Regulations –

- (a) had, on or before 31st March 2004, given notice of appeal to the Department under regulation 15 of the 1997 Regulations but that appeal had not yet been determined or withdrawn; or
- (b) has given notice of such an appeal after 31st March 2004 pursuant to paragraph (1),

(11) Regulation 12 was amended by [S.R. 1999 No. 100](#)

that appeal shall continue to be dealt with as if regulation 15 of the 1997 Regulations had not been revoked.

(3) Where –

- (a) following an appeal dealt with under paragraph (2), the Department determines that the application of the medical practitioner should have been approved by the Board; and
- (b) a default contractor or a general medical services contractor notifies the Board that the person concerned is to join him as a partner,

the Board shall add that person's name to its primary medical services performers list.

Permission for use of facilities in private practice under Article 5 of the 1972 Order

38. Where, on 31st March 2004, a relevant medical practitioner had the permission of the Department under Article 5 of the 1972 Order (provision of accommodation and medical services etc.), that permission shall be regarded, from 1st April 2004, as permission granted under that Article to the succeeding contractor.

Recovery of overpayments

39.—(1) Where, on or before 31st March 2004, a medical practitioner had admitted an overpayment drawn to his attention by a Board or the Agency under regulation 39(2) of the 1997 Regulations⁽¹²⁾ (claims and overpayments) but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31st March 2004, shall, notwithstanding the repeal of the 1997 Regulations, continue to be recoverable by that Board and shall be treated as a debt owed by that medical practitioner to that Board.

(2) Notwithstanding the repeal of the 1997 Regulations, where a Board or the Agency considers that a payment has been made to a medical practitioner under the Statement of Fees and Allowances when it was not due and has not drawn that alleged overpayment to the attention of the medical practitioner on or before 31st March 2004, the Board may draw that overpayment to the attention of the medical practitioner and –

- (a) where the overpayment is admitted by him, the Board may recover the amount overpaid from him as a civil debt; and
- (b) where the overpayment is not admitted by him, the arrangements for appeals set out in paragraph 80 of the Statement of Fees and Allowances shall apply.

(3) In this Article, “Statement of Fees and Allowances” means the statement determined and published by the Department under regulation 37 of the 1997 Regulations⁽¹³⁾, as that statement had effect on 31st March 2004.

Continuation of pre-contract disputes relating to general medical services contracts

40.—(1) Where, on or before 31st March 2004 –

- (a) a prospective party to a general medical services contract had referred a pre-contract dispute to the Department to consider and determine under Article 8(4) of the 1991 Order or under regulation 9 of the 2004 Regulations; and
- (b) that party entered into the general medical services contract whose terms were subject to dispute before that dispute had been determined or withdrawn,

⁽¹²⁾ Regulation 39(2) was amended by [S.R. 1998 No. 9](#)

⁽¹³⁾ Regulation 37 was amended by [S.R. 1998 No. 9](#)

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

the dispute shall, notwithstanding that the parties to the dispute have entered into a general medical services contract, continue to be dealt with under the procedure specified in regulation 9(2) of the 2004 Regulations.

- (2) In the case of a dispute dealt with pursuant to paragraph (1), the determination –
 - (a) may require the parties to agree an amendment or variation to the general medical services contract; and
 - (b) shall be binding upon the parties to that contract.