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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 412**

**HEALTH AND PERSONAL SOCIAL SERVICES**

The Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998

*Made* - - - - *19th November 1998*

*Coming into operation* *1st April 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 15E(1) and (2), 95 and 106(b) of the Health and Personal Social Services (Northern Ireland) Order 1972(1), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998 and shall come into operation on 1st April 1999.

(2) In these Regulations—

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“the 1997 Order” means the Health Services (Primary Care) (Northern Ireland) Order 1997(2);

“the Agency” means the Northern Ireland Central Services Agency for the Health and Social Services, established under Article 26 of the 1972 Order;

“board” means a Health and Social Services Board;

“child health surveillance services” means the services described in regulation 27 of, and paragraph 1 of Schedule 4 to, the GMS Regulations;

“contraceptive services” means the services described in regulation 3(1)(c) of the GMS Regulations;

“doctor” means a medical practitioner;

“doctor’s list” means a list of a doctor’s patients kept by the Agency—

(i) in respect of a doctor providing general medical services, in accordance with regulation 18 of the GMS Regulations, or

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(1) S.I.1972/1265 (N.I. 14). Article 15E was inserted by Article 23 of S.I. 1997/1177 (N.I. 7)

(2) S.I. 1997/1177 (N.I. 7)

- (ii) in respect of a doctor performing personal medical services in connection with a pilot scheme, in accordance with directions given under Article 8(1) of the 1997 Order<sup>(3)</sup>;
- “the GMS Regulations” means the General Medical Services Regulations (Northern Ireland) 1997<sup>(4)</sup>;
- “maternity medical services” means the services described in regulation 34 of, and Schedule 7 to, the GMS Regulations;
- “medical card” means a card issued to a person, in a form approved by the Department, for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;
- “minor surgery services” means the services described in regulation 36 of, and Schedule 7 to, the GMS Regulations;
- “personal medical services” has the meaning assigned to it in Article 3(7) of the 1997 Order;
- “pilot scheme” has the meaning assigned to it in Article 3(1) of the 1997 Order;
- “pilot scheme provider” means a person, other than a board, who is a party to a pilot scheme;
- “pooled list” means a list of person who have been accepted by a pilot scheme provider for the provision of personal medical services under the pilot scheme, and whose names are not included in a doctor’s list;
- “primary medical services” means the services described in Article 15E(5) of the 1972 Order<sup>(5)</sup>; and
- “temporary resident” shall be construed in accordance with regulation 6.

### **Procedure for choosing a doctor**

2.—(1) Any person who wishes to receive primary medical services may choose the doctor from whom he is to receive those services (being a doctor who provides general medical services or who is primarily responsible for the performance of personal medical services under a pilot scheme<sup>(6)</sup>), subject to—

- (a) the consent of that doctor; and
- (b) any limit on the maximum number of persons whose names may be included in the doctor’s list of that doctor, imposed by regulation 23 of the GMS Regulations or, as the case may be, directions given under Article 15E(3) of the 1972 Order<sup>(7)</sup>.

(2) Subject to paragraph (3), an application for inclusion of a person’s name in a doctor’s list shall be made by delivering to the doctor a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

- (3) An application may be made (otherwise than by the doctor concerned)—
  - (a) on behalf of any child, by either parent or, in the absence of both parents, the guardian or other adult person who has the care of the child; or
  - (b) on behalf of any person under 18 years of age who is—

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(3) See paragraph 3 of the directions to Health and Social Services Boards and the Central Services Agency concerning patient lists (personal medical services), given by the Department of Health and Social Services on 19th November 1998

(4) S.R. 1997 No. 380; as amended by S.R. 1998 No. 9

(5) Article 15E was inserted by Article 23 of S.I. 1997/1177 (N.I. 7)

(6) As to such doctors (and the requirement that they must have a doctor’s list) see the directions to Health and Social Services Boards concerning the implementation of pilot schemes (personal medical services), given by the Department of Health and Social Services on 19th November 1998

(7) No such directions had been given at the time these Regulations were made

- (i) in the care of an authority in whose care he has been placed under the provisions of the Children (Northern Ireland) Order 1995(8), by a person duly authorised by that authority; or
  - (ii) in the care of a voluntary organisation, by that voluntary organisation or a person duly authorised by it; or
  - (iii) in a training school, by the manager of that training school; or
- (c) on behalf of any person who is incapable of making such an application, or authorising such an application to be made on his behalf, by a relative or other adult person who has the care of such person.

### **Change of doctor**

**3.—(1)** A person whose name is already included in a doctor's list, but who wishes to change doctor, may, in accordance with regulation 2, apply to another doctor who provides general medical services or performs personal medical services for inclusion of his name in the doctor's list of that other doctor.

(2) The Agency shall give notice in writing of any of the following events to all the persons whose names are included in a doctor's list—

- (a) the death of the doctor;
- (b) the fact that the doctor has ceased to provide general medical services under an arrangement with the board, otherwise than to enable him to perform personal medical services in the board's area;
- (c) the fact that the doctor has ceased to perform personal medical services in the board's area, otherwise than to enable him to provide general medical services under an arrangement with the board.

(3) Where in any case in which the Agency is obliged to give notice under paragraph (2), a successor is appointed to the doctor's practice under Part II of the GMS Regulations or, as the case may be, a pilot scheme is varied to allow a named doctor to perform personal medical services as a successor to the first-named doctor (and the named doctor will be primarily responsible for the performance of personal medical services under the pilot scheme), the Agency shall in writing inform each person whose name is included in the doctor's list of the doctor who last carried on that practice—

- (a) of the name of the successor (and, if more than one, of each of them) and of the address of his (or, as the case may be, their) practice premises; and
- (b) that his name will be deemed to be included in the doctor's list of a named successor from a specified date and will be transferred to that list at the end of the period of 14 days beginning on that date unless, before the date on which the transfer is to occur, he gives notice in writing to the Agency that he does not wish his name to be included in that list.

(4) Where no such successor is to be appointed to a practice, the Agency shall notify the persons whose names are included in the doctor's list of the doctor who last carried on that practice of their right to apply to another doctor for acceptance.

### **Assignment of persons to doctors**

**4.—(1)** Where—

- (a) a person whose name is not included in a doctor's list has been refused acceptance by a doctor for inclusion in his doctor's list; or

- (b) a person whose name is included in a doctor's list, but who wishes to change doctor, has been refused acceptance by a doctor for inclusion in his doctor's list; or
- (c) a person has applied to a doctor under regulation 6(1) to be accepted by him as a temporary resident and that application has been refused,

he may apply in writing to the Agency for assignment to a doctor.

(2) On receipt of an application for assignment to a doctor, the Agency shall—

- (a) subject to paragraph (4), assign the applicant to any doctor with whom a board has made arrangements for the provision of general medical services, and notify the doctor and the applicant accordingly; or
- (b) require a pilot scheme provider to assign the applicant in accordance with regulation 5 to a doctor who performs personal medical services in connection with a pilot scheme to which the pilot scheme provider is a party.

(3) In deciding on the doctor to whom a person should be assigned or, as the case may be, the pilot scheme provider who should be required to make such an assignment, the Agency shall have regard to—

- (a) the respective distances between the person's residence and the practice premises of the doctors in the part of the board's area in question;
- (b) whether during the period of six months ending on the date on which the application for assignment is received by the Agency the person's name has been removed from the doctor's list of any doctor in that part of the area at the request of that doctor or, as the case may be, a pilot scheme provider; and
- (c) such other matters as the Agency considers to be relevant.

(4) No person may be assigned to a doctor by the Agency under this regulation without the consent of the Department, if the number of persons whose names are already included in the doctor's list of that doctor is equal to or greater than the maximum prescribed in relation to that doctor by regulation 23 of the GMS Regulations.

(5) Where—

- (a) the Department refuses its consent for the purposes of paragraph (4); or
- (b) a pilot scheme provider is unable to comply, in accordance with regulation 5, with a requirement to assign an applicant to a doctor,

and the Agency is satisfied, after due inquiry, that the person concerned still wishes to be assigned to a doctor it shall as soon as practicable assign, or require the assignment of, that person to another doctor in accordance with the provisions of this regulation.

(6) A doctor to whom a person is assigned under this regulation or regulation 5 shall not be required to provide child health surveillance services, contraceptive services, maternity medical services or minor surgery services for that person, unless—

- (a) he has accepted him for the provision of such services under the GMS Regulations<sup>(9)</sup>; or
- (b) he is obliged to provide those services to him in connection with a pilot scheme.

(7) Where—

- (a) a doctor has requested the Agency to remove a person's name from his doctor's list under paragraph 10 of Schedule 2 to the GMS Regulations; or
- (b) a pilot scheme provider has requested the Agency to remove a person's name from a doctor's list or a pooled list under corresponding provisions of a pilot scheme<sup>(10)</sup>,

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<sup>(9)</sup> See regulations 27, 28, 34 and 36 respectively

<sup>(10)</sup> See paragraph 11(3) of the directions to Health and Social Services Boards concerning the implementation of pilot schemes (personal medical services), given by the Department of Health and Social Services on 19th November 1998

the Agency shall take all reasonable steps to assign, or to require the assignment of, the person to another doctor before the end of the working day after the day on which the Agency receives notification from the doctor or the pilot scheme provider under paragraph 10(1) of Schedule 2 to the GMS Regulations or corresponding provisions of a pilot scheme, or as soon as possible thereafter; and the provisions of this regulation shall apply as if the person had applied for an assignment.

(8) The Agency may exempt from the liability to have persons assigned to him under this regulation any doctor who provides general medical services and who applies to the Agency for that purpose.

(9) In considering an application under paragraph (8) the Agency shall have regard to—

- (a) the doctor's age and state of health;
- (b) the number of persons whose names are included in his doctor's list; and
- (c) where the application relates only to a specified person whose name has previously been removed from his doctor's list, the circumstances of that removal,

and the Agency shall notify any such doctor in writing of any decision under this paragraph.

#### **Assignment by a pilot scheme provider**

5.—(1) A pilot scheme provider who is required under regulation 4(2)(b) to assign an applicant to a doctor shall (subject to paragraphs (3), (4) and (5)) assign the applicant to a doctor within the period of two days beginning with the day on which he receives notice of the requirement to assign and shall, upon making that assignment, notify—

- (a) the Agency of the name of the doctor to whom the applicant has been assigned; and
- (b) the doctor of the assignment,

and the Agency shall, on receipt of notification under sub-paragraph (a), notify the applicant of the doctor to whom he has been assigned.

(2) In deciding on the doctor to whom a person should be assigned, the pilot scheme provider shall have regard to—

- (a) the respective distances between the person's residence and the practice premises of the doctors to whom he might assign that person (in this paragraph called "the relevant doctors");
- (b) whether within the period of six months ending on the date on which notice of the requirement to assign is received by the pilot scheme provider the person's name has been removed from the doctor's list of any of the relevant doctors at the request of the pilot scheme provider; and
- (c) such other matters as the pilot scheme provider considers to be relevant.

(3) No person may be assigned to a doctor under this regulation without the consent of the Department, if the number of persons whose names are already included in the doctor's list of that doctor is equal to or greater than any maximum imposed by directions given under Article 15E(3) of the 1972 Order.

(4) A pilot scheme provider may not assign the applicant to a doctor if that assignment would contravene the terms of the pilot scheme, in particular as to—

- (a) whether the doctor is to be primarily responsible for the performance of personal medical services; and
- (b) if so, the maximum number of persons who may be included in his doctor's list.

(5) A pilot scheme provider may seek to assign the applicant to a doctor in a case where the consent of the Department is required under paragraph (3) only if there is no other doctor to whom

he could make an assignment in accordance with this regulation which would not require the consent of the Department.

- (6) A pilot scheme provider shall inform the Agency forthwith if—
- (a) he has sought the consent of the Department for the purposes of paragraph (3) and that consent has been refused; or
  - (b) he is unable to assign the applicant to any doctor without contravening the terms of the pilot scheme,

and shall, in each of those cases, provide personal medical services to the applicant (which provision need not include the services mentioned in regulation 4(6), unless the pilot scheme provider is obliged to provide those services to the applicant in connection with a pilot scheme) for the period of 14 days beginning on the day on which the pilot scheme provider so informs the Agency, or if the applicant is accepted by a doctor or another pilot scheme provider or assigned to a doctor within that period, until he is so accepted or assigned.

### **Temporary residents**

- 6.—(1) A person requiring treatment who is—
- (a) temporarily residing away from his normal place of residence and is not included in the doctor's list of a doctor who practices in the vicinity of the place where he is temporarily residing, or in a pooled list of doctors who practise in that vicinity; or
  - (b) moving from place to place and not for the time being resident in any place,

may apply to any doctor who provides general medical services or is primarily responsible for the performance of personal medical services under a pilot scheme in the area in which he is temporarily resident, to be accepted by him as a temporary resident.

(2) For the purposes of paragraph (1), a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours, but not more than three months.

### **Transfer of doctors between provision of general medical services and performance of personal medical services**

7.—(1) Where a person has chosen a doctor from whom he is to receive general medical services and—

- (a) his name is included in the doctor's list of that doctor; or
- (b) he has been accepted for inclusion of his name in that doctor's list,

he shall, subject to regulation 3(1) and his right to withdraw from a doctor's list under regulation 22(1) of the GMS Regulations, continue to be included in the doctor's list of his chosen doctor notwithstanding that the doctor ceases to provide general medical services, in the circumstances specified in paragraph (2).

- (2) The circumstances are where the doctor—
- (a) immediately starts to perform personal medical services in connection with a pilot scheme and one of the parties to that pilot scheme is a board which previously made arrangements with the doctor for provision of general medical services; and
  - (b) is primarily responsible for the performance of personal medical services under the pilot scheme.

(3) Where a person has chosen a doctor from whom he is to receive personal medical services and—

- (a) his name is included in the doctor's list of that doctor; or

(b) he has been accepted for inclusion of his name in that doctor's list, he shall, subject to regulation 3(1) and his right to withdraw from a doctor's list under directions given under Article 8(1) of the 1997 Order<sup>(11)</sup>, continue to be included in the doctor's list of his chosen doctor notwithstanding that the doctor ceases to perform personal medical services, if the doctor immediately starts to provide general medical services by virtue of an arrangement made with him by the board which was a party to the pilot scheme in connection with which he previously performed personal medical services.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

19th November 1998.

*Joan Dixon*  
Assistant Secretary

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<sup>(11)</sup> See the directions to Health and Social Services Boards and the Central Services Agency concerning patient lists (personal medical services), given by the Department of Health and Social Services on 19th November 1998

*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 replace provisions of the General Medical Services Regulations (Northern Ireland) 1997 (“the GMS Regulations”) relating to the right (which is now enshrined in Article 15E of the Health and Personal Social Services (Northern Ireland) Order 1972 (“the 1972 Order”)) of any person to choose the doctor from whom he is to receive primary medical services. These Regulations make provision in relation to both doctors who provide general medical services under Part VI of the 1972 Order, and doctors who perform personal medical services in connection with a pilot scheme under Article 3(1) of the Health Services (Primary Care) (Northern Ireland) Order 1997.

The Regulations specify the procedures for applying to be included in a doctor’s list of patients (regulation 2) and for changing doctor (regulation 3). They also make provision for temporary residents, who are not included in the list of a doctor in the vicinity of the place where they are presently residing, to choose the doctor by whom they are to be treated (regulation 6). They confirm that a person who has chosen a particular doctor will, in certain circumstances, continue to be included in that doctor’s list of patients if the doctor transfers from the provision of general medical services to the performance of personal medical services or vice versa (regulation 7).

The Regulations make provision for assignment to a doctor of persons who have not chosen a doctor, or who have not been accepted for inclusion in the list of the doctor of their choice. The Central Services Agency is required either to assign such a person to a doctor who provides general medical services in the area, or to require a person who provides piloted services (“a pilot scheme provider”) to make an assignment to a doctor who performs personal medical services under the pilot scheme in question. The Regulations set out the matters to which the Central Services Agency or, as the case may be, the pilot scheme provider must have regard in making or requiring an assignment, and specify circumstances in which an assignment may not be made to a particular doctor (regulations 4 and 5).

The directions to Health and Social Services Boards and the Central Services Agency concerning patient lists and the implementation of pilot schemes, which are referred to in these Regulations, can be obtained from—

Primary Care and Commissioning Development Directorate

Health and Social Services Executive

Dundonald House

Upper Newtownards Road

Belfast BT4 3SF