
STATUTORY INSTRUMENTS

1992 No. 635

**The National Health Service (General
Medical Services) Regulations 1992**

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Medical Services) Regulations 1992 and shall come into force on 1st April 1992.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service Act 1977⁽¹⁾;

“assistant” means a doctor who is acting as an assistant to a doctor on the medical list;

“chemist” has the same meaning as in the Pharmaceutical Regulations;

“child” means a person who has not attained the age of 16 years;

“child health surveillance list” shall be construed in accordance with regulation 27;

“child health surveillance services” means the personal medical services described in regulation 28(2) and in Schedule 4;

“contraceptive services” has the same meaning as in regulation 3(1)(c);

“doctor” means a registered medical practitioner;

“domiciliary visit” means a visit by a doctor either to the place where the patient resides or to the place, other than the doctor’s practice premises, where the doctor is obliged, pursuant to paragraph 13 of the terms of service, to render personal medical services to the patient;

“drug” includes medicine;

“FHSA” means a Family Health Services Authority;

“Family Health Services Authority” means a body of that name established by the Secretary of State under section 10(1) of the Act⁽²⁾;

“full-time doctor” shall be construed in accordance with regulation 15(1)(a);

“group practice” means an association of not less than two doctors both or all of whom—

(a) have their names included in an FHSA’s medical list;

⁽¹⁾ 1977 c. 49.

⁽²⁾ Section 10 was substituted by section 5(1) of the Health and Social Security Act 1984 (c. 48) and amended by section 2(3) of the National Health Service and Community Care Act 1990 (c. 19). By virtue of section 2(1)(b) of the National Health Service and Community Care Act 1990, references in any Act to a Family Practitioner Committee fall to be construed as references to a Family Health Services Authority.

- (b) co-ordinate, in the course of regular contact between them, their respective obligations under the terms of service for doctors to provide personal medical services to their patients; and
 - (c) conduct and manage their practices from at least one common set of practice premises;
- “half-time doctor” shall be construed in accordance with regulation 15(1)(c);
- “Health Committee” means the Health Committee of the General Medical Council constituted under section 1(3) of the Medical Act 1983(3);
- “job-sharing doctor” shall be construed in accordance with regulation 15(1)(d);
- “local directory” means the local directory of family doctors maintained by an FHSA pursuant to regulation 8;
- “Local Medical Committee” means a committee recognised under section 44 of the Act(4) as being representative of medical practitioners in a locality;
- “locality” means the locality for which an FHSA is established;
- “maternity medical services” shall be construed in accordance with regulation 31 and Schedule 5;
- “medical card” means a card issued by an FHSA to a person for the purpose of enabling him to obtain, or establishing his title to receive, general medical services, other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;
- “medical list” shall be construed in accordance with regulation 4(1);
- “medical officer” means a doctor in the service of the Department of Social Security or, as the case may be, of the Welsh Office;
- “Medical Practices Committee” means the committee constituted in accordance with section 7 of the Act;
- “medical records” means, in relation to any patient, the records maintained in respect of that patient pursuant to paragraph 36 of the terms of service;
- “Medical Register” shall be construed in accordance with section 34 of the Medical Act 1983(5);
- “minor surgery list” shall be construed in accordance with regulation 32;
- “minor surgery services” means the personal medical services described in regulation 33 and in Schedule 6;
- “obstetric list” shall be construed in accordance with regulation 30;
- “parent” includes, in relation to any child, any adult person who, in the opinion of the doctor, is for the time being discharging in respect of that child the obligations normally attaching to a parent in respect of his child;
- “patient” has the same meaning as in paragraph 4 of the terms of service;
- “Pharmaceutical Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(6);
- “practice area” means the area in which a doctor is under an obligation to visit patients, by virtue either of his application for inclusion in the medical list or of any variation to it pursuant to these Regulations or the terms of service;

(3) [c.54.](#)

(4) Section 44 was amended by section 12(4) of the National Health Service and Community Care Act 1990 ([c. 19](#)).

(5) [1983 c. 54.](#)

(6) [S.I. 1992/662.](#)

“practice premises” means, in relation to any doctor, the premises at which he is obliged under paragraph 29 of the terms of service to attend in order to be consulted by, or to provide treatment or services for, his patients;

“Preliminary Proceedings Committee” means the Preliminary Proceedings Committee of the General Medical Council constituted under section 1(3) of the Medical Act 1983;

“Professional Conduct Committee” means the Professional Conduct Committee constituted under section 1(3) of the Medical Act 1983;

“relevant service” means—

- (a) whole-time service in the armed forces of the Crown in a national emergency as a volunteer or otherwise; or
- (b) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
- (c) any equivalent service by a person liable for compulsory whole-time service in those forces;

“restricted doctor” shall be construed in accordance with regulation 15(1)(e);

“restricted list principal” means a doctor who has undertaken to provide general medical services only to a restricted category of patients identified by reference to their connection with a particular establishment or organisation, and “restricted list” shall be construed accordingly;

“restricted services principal” means a doctor who has undertaken to provide general medical services limited to—

- (a) child health surveillance services;
- (b) contraceptive services;
- (c) maternity medical services; or
- (d) minor surgery services,

or to any combination of the above and “restricted services” shall be construed accordingly;

“temporary resident” shall be construed in accordance with regulation 26;

“terms of service” means the terms of service contained, or referred to, in Schedule 2;

“three-quarter-time doctor” shall be construed in accordance with regulation 15(1)(b);

“trainee general practitioner” means a doctor who is being trained in general practice;

“treatment” means medical attendance and treatment, but does not include child health surveillance services, contraceptive services, maternity medical services or minor surgery services, unless the doctor has undertaken to provide such services to the person concerned in accordance with these Regulations;

“the Tribunal” means the Tribunal constituted under section 46 of the Act(7).

(2) Except where expressly provided to the contrary, any document which is required or authorised to be given or sent to a person or body under these Regulations (including the terms of service) may be given or sent by delivering it to that person or, in the case of a body, to the secretary or general manager of that body or by sending it in a pre-paid envelope addressed to him or, in the case of a body, to the secretary or general manager of that body at his usual or last known address.

(3) Unless the context otherwise requires—

- (a) any reference in these Regulations—

(7) 1977 c. 49; section 46 was amended by the Health and Social Security Act 1984 (c. 48), Schedule 8, and modified by S.I.1985/39, article 7(16).

- (i) to a numbered regulation is a reference to the regulation bearing that number in these Regulations,
 - (ii) to a numbered Part or Schedule is to the Part of, or Schedule to, these Regulations bearing that number,
 - (iii) to a form thereby prescribed includes a form substantially the same; and
- (b) any reference in a regulation or in a Schedule to these Regulations to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule.
- (4) Where, by virtue of directions given under section 13 of the Act, or by virtue of any arrangements made pursuant to regulations made under the Act, a function of the Secretary of State is exercisable by some other person or body, a reference in these Regulations to the Secretary of State in relation to that function includes a reference to the person or body exercising that function on behalf of the Secretary of State⁽⁸⁾.

Scope and terms of service

3.—(1) The arrangements with doctors for the provision of general medical services which it is the duty of an FHSA under section 29 of the Act⁽⁹⁾ to make and, under section 15(1) of the Act⁽¹⁰⁾, to administer shall include arrangements for the provision of—

- (a) all necessary and appropriate personal medical services of the type usually provided by general medical practitioners;
- (b) child health surveillance services;
- (c) contraceptive services, that is to say—
 - (i) the giving of advice to women on contraception,
 - (ii) the medical examination of women seeking such advice,
 - (iii) the contraceptive treatment of such women, and
 - (iv) the supply to such women of contraceptive substances and appliances;
- (d) maternity medical services; and
- (e) minor surgery services.

(2) The arrangements to which paragraph (1) refers shall incorporate the terms of service set out in Schedule 2, and Schedules 8, 9, 10, 11, 12 and 13 shall have effect for the purposes of paragraphs 29, 37, 44(1), 44(2), 47 and 50 respectively of the terms of service.

PART II

THE MEDICAL LIST

Medical list

- 4.—(1) An FHSA shall prepare a list, to be called the medical list, of—
- (a) doctors entitled, pursuant to section 30 of the Act, to have their names included in the list; and
 - (b) doctors for the time being appointed under regulation 25.

⁽⁸⁾ See S.I. 1992/660.

⁽⁹⁾ See column 2 of Schedule 1 to these Regulations for the relevant amendments to section 29.

⁽¹⁰⁾ Section 15(1) was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraphs 35 and 90 and by the Health and Social Security Act 1984 (c. 48), section 5(2) and Schedule 8, Part I.

- (2) The medical list shall be divided into five parts, as follows:—
- (a) part I shall contain the names of doctors who are full-time doctors;
 - (b) part II shall contain the names of doctors who are three-quarter-time doctors;
 - (c) part III shall contain the names of doctors who are half-time doctors;
 - (d) part IV shall contain the names of doctors who are job-sharing doctors; and
 - (e) part V shall contain the names of doctors who are restricted doctors.
- (3) An FHSa shall, when including the name of any doctor in its medical list, assign the name to that part of the list which is, by virtue of paragraph (2), appropriate in the case of that doctor, having regard to the nature of any condition imposed or treated as imposed in relation to him by the Medical Practices Committee under regulation 15.
- (4) In respect of any doctor whose name is included in it, the medical list shall indicate—
- (a) if he is on any of the child health surveillance list, the obstetric list or the minor surgery list;
 - (b) if the general medical services he has undertaken to provide include, exclude or are limited to maternity medical services;
 - (c) except in the case of a doctor who has requested otherwise, if he has undertaken to provide contraceptive services, and if so—
 - (i) whether he has so undertaken in respect only of patients for whom he or his partners have also undertaken to provide other general medical services, or
 - (ii) whether he has so undertaken without such restriction;
 - (d) if he has been relieved of the responsibility for providing services during certain times under paragraph 18(2) of the terms of service and the name of the doctor with whom the FHSa has made arrangements for the provision of services during such times;
 - (e) if he is included in the medical list by virtue of his appointment under regulation 25; and
 - (f) if he is a restricted list principal or a restricted services principal, and if so, the nature of the restricted list or, as the case may be, of the restricted services.
- (5) In addition to the name of the doctor and any information required to be included by virtue of paragraph (4), the medical list shall contain—
- (a) the address of the practice premises where he agrees to attend for the purpose of treating persons, and the telephone numbers at which he is prepared to receive messages;
 - (b) particulars of the days and hours when he agrees to be in attendance at such premises;
 - (c) particulars of any days and hours when an appointments system is in operation;
 - (d) where he practises in partnership, the name of each partner;
 - (e) where he participates in a group practice, the name of each other doctor in that group practice;
 - (f) an indication of the geographical boundary of his practice area by reference to a sketch, diagram or plan and details of any conditions as to his practice area attached to the granting of his application by the Medical Practices Committee or, on appeal, by the Secretary of State;
 - (g) if the FHSa thinks fit, details of that part of the locality in which the doctor undertakes to provide treatment; and
 - (h) provided that the doctor consents to its inclusion, his date of birth, or, if he does not so consent, the date of his first full registration as a medical practitioner (whether pursuant to the Medical Act 1983(11) or otherwise).

Application for inclusion in the medical list or to succeed to a vacancy

5.—(1) An application by a doctor for the inclusion of his name in the medical list shall be made except in a case to which paragraph (2) applies, by sending to the FHSA an application in writing which shall include the information and undertakings specified in Part I of Schedule 3.

(2) An application by a doctor—

(a) to succeed to a practice declared vacant; or

(b) to fill a vacancy which has arisen where the Medical Practices Committee has resolved that an additional doctor is required in a locality otherwise than in succession to another doctor,

shall be made, by sending the application to the FHSA by no later than the date specified in the notice given under regulation 12 in respect of the vacancy to which the application relates, or within such further period as that FHSA may for reasonable cause allow, and shall include the information and undertakings specified in Part II of Schedule 3.

(3) On receiving an application under paragraph (1) the FHSA shall, subject to section 30(1A) of the Act(12) (which contains requirements as to knowledge of English), forthwith send the application to the Medical Practices Committee together with a report containing the information specified in Part IIIA of Schedule 3.

(4) Where a doctor makes an application for the inclusion of his name in the medical list of more than one FHSA, the FHSA in whose locality resides the largest number of individuals who are expected to be on his list of patients, shall send to the Medical Practices Committee the report mentioned in paragraph (3) and any other FHSA shall send the application to the Medical Practices Committee together with a report containing the information specified in Part IIIB of Schedule 3.

(5) Where a doctor makes an application for the inclusion of his name in the medical list only as a restricted list principal the FHSA shall send the application to the Medical Practices Committee together with a report containing the information specified in Part IIIC of Schedule 3.

(6) Where a doctor makes an application for the inclusion of his name in the medical list only as a restricted services principal, the FHSA shall send the application to the Medical Practices Committee together with a report containing the information specified in Part IIID of Schedule 3.

(7) Before making a report under paragraph (3), (4), (5) or (6), the FHSA shall consult the Local Medical Committee.

(8) Where a report mentioned in paragraph (3), (4), (5) or (6) does not support a doctor's application under paragraph (1), the FHSA shall send to the doctor a copy of that part of the report which does not support his application and the doctor may, within 14 days of receiving it, send to the Medical Practices Committee his representations in writing in response to that report.

(9) In paragraph (2)(a) and in paragraph 14(5) of the terms of service “practice declared vacant” means a practice—

(a) which has been rendered vacant by—

(i) the death of a doctor included in the medical list by virtue of regulation 4(1)(a), or

(ii) the withdrawal or removal of such a doctor from the medical list; and

(b) as respects which the Medical Practices Committee has resolved that a doctor is required to fill the vacancy.

Amendment of or withdrawal from the medical list

6.—(1) A doctor shall, unless it is impracticable for him to do so, give notice to the FHSA within 28 days of any occurrence requiring a change in the information recorded about him in the medical list.

(12) Section 30(1A) was added by the Health and Social Security Act 1984, Schedule 3.

(2) A doctor shall, unless it is impracticable for him to do so, give notice in writing to the FHSA at least 3 months in advance of any date on which he intends either—

- (a) to withdraw his name from any of the medical list, the child health surveillance list, the obstetric list or the minor surgery list; or
- (b) to cease to provide any of the following services, namely child health surveillance services, contraceptive services, maternity medical services, or minor surgery services.

(3) Subject to paragraph (6), the FHSA shall—

- (a) on receiving notice from any doctor pursuant to paragraph (1), amend the medical list in relation to that doctor; and
- (b) in the case of a notice pursuant to paragraph (2), so amend the medical list, the child health surveillance list, the obstetric list or the minor surgery list, as the case may be, either—
 - (i) on the date which falls 3 months after the date of the notice, or
 - (ii) on the date from which the FHSA has agreed that the withdrawal or cessation shall take effect,

whichever is the earlier.

(4) Any notice pursuant to paragraph (2) may not be withdrawn except with the consent of the FHSA.

(5) Where the Medical Practices Committee notifies the FHSA that, in relation to any doctor whose name is included in the medical list, it has varied under regulation 16 any condition mentioned in paragraph (1)(a)(i) of that regulation, the FHSA shall amend the medical list by transferring the name of that doctor to that part of the list which, having regard to the nature of the condition as varied, is appropriate in his case by virtue of regulation 4(2).

(6) Where, in relation to any doctor, representations are made to the Tribunal under section 46 of the Act⁽¹³⁾ (disqualification of practitioners) that his continued inclusion in the medical list would be prejudicial to the efficient provision of general medical services, the doctor shall not, except with the consent of the Secretary of State, be entitled to have his name removed from the medical list until the proceedings on those representations have been determined.

Removal from the medical list

7.—(1) Where an FHSA determines that a doctor whose name has been included in its medical list—

- (a) has died;
- (b) is no longer a doctor; or
- (c) is the subject of a direction given by the Professional Conduct Committee under section 36 of the Medical Act 1983⁽¹⁴⁾ (erasure of name from the register or suspension of registration) or of an order made by that Committee under section 38(1) of that Act (immediate suspension),

it shall remove his name from the medical list with effect from the date of its determination or, where sub-paragraph (c) applies, the date on which the direction or order takes effect, if that date is later than the date of the FHSA's determination.

(2) Where an FHSA determines, in accordance with paragraphs (3) and (4), that a doctor whose name has been included in the medical list for the preceding six months has not during that period provided any general medical services personally, the FHSA may remove his name from the medical list.

⁽¹³⁾ Section 46 was amended by Schedule 8 to the Health and Social Security Act 1984 (c. 48) and by S.I.1985/39, article 7(16).

⁽¹⁴⁾ 1983 c. 54.

- (3) In calculating the period of six months referred to in paragraph (2) the FHSA shall disregard—
- (a) any period during which the doctor provided no general medical services by reason only that his registration as a medical practitioner was suspended as mentioned in section 29(8) of the Act⁽¹⁵⁾ (suspension by direction or order of the Health Committee or by interim order of the Preliminary Proceedings Committee); and
 - (b) any period during which the doctor was performing relevant service.
- (4) Before making any determination under paragraph (2) the FHSA shall—
- (a) give the doctor 28 days' notice of its intention;
 - (b) afford the doctor an opportunity of making representations to the FHSA in writing or (if he so wishes) in person; and
 - (c) consult the Local Medical Committee.
- (5) Where under paragraph (2) the FHSA determines to remove a doctor's name from its medical list it shall give notice in writing of its determination to the doctor together with the reasons for it and inform him of his right of appeal under paragraph (6).
- (6) A doctor to whom a notice has been given under paragraph (5) may, within 21 days of receipt of the notice, appeal to the Secretary of State against the decision of the FHSA, and the FHSA shall not remove the doctor from the medical list until—
- (a) if no appeal is made, the expiration of the period of 21 days; or
 - (b) if an appeal is made, the appeal is determined.
- (7) An appeal under paragraph (6) shall be made in writing and shall set out the grounds of appeal.
- (8) On any appeal pursuant to paragraph (6), the Secretary of State may hold an oral hearing of the appeal and in such a case shall—
- (a) appoint one or more persons to hear the appeal who shall report to him on the appeal; and
 - (b) not less than 14 days before the date fixed for the hearing, give notice in writing to the appellant and to the FHSA.
- (9) Where the Secretary of State holds an oral hearing of an appeal pursuant to paragraph (8), the appellant and the FHSA may be represented by counsel, solicitor or any other person.
- (10) Where the Secretary of State allows the appeal, he shall direct the FHSA not to remove the doctor's name from the medical list.
- (11) The FHSA shall remove from the medical list the name of any doctor who has attained the age of 70 years, with effect from the date on which he attained that age.
- (12) The FHSA shall give to any doctor whose name is to be removed from the medical list in accordance with paragraph (11)—
- (a) notice in writing to that effect not less than 12 months nor more than 13 months before the date on which his name is to be removed; and
 - (b) a further such notice not less than 3 months nor more than 4 months before that date,
- but the failure to give notice to any doctor as required by sub-paragraph (a) or (b) shall not prevent the removal of that doctor's name from the medical list in accordance with paragraph (11).

Local directory of family doctors

8.—(1) Subject to the requirements of this regulation and regulation 9, an FHSA shall prepare, and thereafter maintain, in addition to the medical list, a list to be known as the local directory of

⁽¹⁵⁾ Section 29(8) was amended by paragraph 2(2) of Schedule 6 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

family doctors comprising, in respect of each doctor whose name is included in its medical list, the following information:—

- (a) all the information included in respect of the doctor in the medical list of the FHSA, other than—
 - (i) information included pursuant to regulation 4(4)(d), and
 - (ii) his date of birth, unless the doctor has agreed to its inclusion in the local directory;
- (b) where the doctor's date of birth is included in the medical list but he has not agreed to its inclusion in the local directory, the date of his first full registration as a medical practitioner whether pursuant to the Medical Act 1983(16) or otherwise;
- (c) the sex of the doctor;
- (d) details of any medical qualification held by the doctor which he is entitled to have registered pursuant to section 16 of the Medical Act 1983 (registration of qualifications), including the date on which the qualification was awarded;
- (e) the nature of any clinic provided by the doctor for his patients and the frequency with which it is held;
- (f) the number of assistants and trainee general practitioners employed by him;
- (g) details of—
 - (i) the number of other persons employed or available at his practice premises to assist him in the discharge of his obligations under the terms of service,
 - (ii) the nature of the services provided by each such person, and
 - (iii) the average number of hours normally worked by each such person during any week;
- (h) the terms of any consent granted to the doctor by the FHSA or, on appeal, by the Secretary of State, pursuant to paragraph 22 of the terms of service, concerning the use of a deputising service; and
- (i) where, and to the extent that, the doctor so requests—
 - (i) details of any languages, other than English, spoken by the doctor or by any person referred to in sub-paragraphs (f) or (g), and
 - (ii) details of any particular clinical interests of the doctor.

(2) Paragraph (1) shall apply in the case of a restricted list principal or a restricted services principal only to the extent that the FHSA sees fit.

(3) The FHSA may, to the extent that it sees fit, also include in the local directory other details or material relating to general medical services, general dental services, general ophthalmic services and pharmaceutical services in its locality.

(4) The local directory shall include the name of each doctor in alphabetical order.

(5) Where a doctor practises in partnership or in a group practice with other doctors, the information regarding his practice which falls to be included in the local directory pursuant to paragraph (1)(e), (f), (g), (h) and (i) may, provided each doctor in the partnership or, as the case may be, the group practice agrees, be included in the entry relating to only one of those doctors.

(6) Notwithstanding the provisions of regulation 37, the FHSA may compile extracts from the information in the local directory by reference to geographical areas of the FHSA's locality, and may make any such extracts available to persons to whom, in the opinion of the FHSA, it is likely to be of interest.

Amendment of local directory

9.—(1) A doctor shall, unless it is impracticable for him to do so, notify the FHSA within 28 days of any occurrence requiring a change in the information recorded about him in the local directory.

(2) The FHSA shall, in the event of a notification pursuant to paragraph (1), make any necessary amendment to the local directory.

PART III

MEDICAL PRACTICES COMMITTEE

Appointment of members and tenure of office

10.—(1) Subject to paragraphs (2) to (4), the chairman and other members of the Medical Practices Committee shall be appointed for a period of three years expiring on 31st March in any year.

(2) A member may be re-appointed on the expiration of his term of office.

(3) A member may resign by giving notice in writing to the Secretary of State, and a member who is appointed as being a person actively engaged in medical practice shall be deemed to have resigned if he ceases to be so engaged.

(4) In the case of a vacancy in membership occasioned by death or by resignation (including deemed resignation under paragraph (3)), a person shall be appointed to fill the vacancy for the remainder of the period for which his predecessor was appointed.

Reports by the FHSA

11.—(1) An FHSA shall, at least once in every three years, make to the Medical Practices Committee a report, containing the information set out in Part IV of Schedule 3, to enable the Medical Practices Committee to judge the adequacy of the medical services in the locality or its different parts.

(2) Subject to paragraphs (3) and (4), where a doctor dies or his name is otherwise withdrawn or removed from the medical list, except where the inclusion of that doctor's name in the list was by virtue only of his appointment under regulation 25, the FHSA shall make a report to the Medical Practices Committee containing the information set out in Part V of Schedule 3 and shall advise as to the need for filling the vacancy.

(3) Where the doctor who has died or whose name is otherwise withdrawn or removed from the medical list was included in the medical list of more than one FHSA, the FHSA in whose locality resides the largest number of individuals who are on his list of patients shall make a report to the Medical Practices Committee containing the information set out in Part V of Schedule 3 and advising as to the need for filling the vacancy and any other FHSA shall make a report to the Medical Practices Committee containing only the information set out in paragraphs 1(a) and (c) and 7 of Part V of Schedule 3.

(4) Where the doctor who has died or whose name is otherwise withdrawn or removed from the medical list was included in the list only as a restricted services principal, the FHSA shall make a report to the Medical Practices Committee containing only the information set out in paragraph 1(a) and (b) of Part V of Schedule 3.

(5) Before making any report under paragraph (1), (2), (3) or (4) the FHSA shall consult the Local Medical Committee.

Advertisement of vacancies

12.—(1) Where it has been resolved that a vacancy has arisen or is about to arise in any locality, the FHSA for that locality shall, within such period as the Medical Practices Committee shall direct, give notice of the vacancy in accordance with paragraph (2).

- (2) A notice of a vacancy—
- (a) shall include—
 - (i) details of the nature and location of the vacancy,
 - (ii) where the vacancy is one in connection with which the Medical Practices Committee has indicated to the FHSA the nature of any condition which it is likely to impose under section 33(4) of the Act in relation to a successful applicant, details of that condition, and
 - (iii) the date by which any application to fill the vacancy must be sent or delivered to that FHSA;
 - (b) may include such other information about the vacancy or the locality as that FHSA considers appropriate, and
 - (c) shall be published in such manner as appears to that FHSA to be likely to bring the vacancy to the attention of doctors within and outside its locality.
- (3) In this regulation and in regulation 13, “vacancy” means a requirement for—
- (a) an additional doctor to provide general medical services otherwise than in succession to another doctor, as mentioned in regulation 5(2)(b); or
 - (b) a doctor to succeed to a practice which has been rendered vacant, as mentioned in regulation 5(6).

Selection of applicants by FHSA

13.—(1) An application under regulation 5(2) in respect of a vacancy shall be an application to which the provisions of section 33(2A)(17) of the Act shall apply, and shall be dealt with by the FHSA in accordance with the following provisions of this regulation.

(2) Where the FHSA receives more than one such application in connection with any vacancy, it shall select the applicant whose application it wishes to be considered by the Medical Practices Committee.

(3) Before making its selection for the purposes of paragraph (2), the FHSA may give to any applicant for the vacancy an opportunity of making—

- (a) representations to it in writing; and
 - (b) where the FHSA sees fit, representations to it in person.
- (4) When the FHSA has selected an applicant, it shall—
- (a) notify each applicant in writing whether or not he has been selected;
 - (b) inform any applicant who has not been selected of his right of appeal to the Secretary of State on a point of law under section 33(2A)(c) of the Act; and
 - (c) subject to paragraph (5), send the application of the selected applicant to the Medical Practices Committee, indicating in writing that it wishes that application to be considered by that Committee.

(17) Subsection (2A) was inserted into section 33 of the Act by section 23(2) of the National Health Service and Community Care Act 1990 (c. 19).

(5) An application shall not be sent to the Medical Practices Committee under paragraph (4)(c) until—

- (a) the time has expired for bringing an appeal under section 33(2A)(c) of the Act in connection with the non-selection of any applicant for the vacancy to which the application relates; or
- (b) where such an appeal is made—
 - (i) the appeal has been determined adversely to the appellant, or
 - (ii) where the appeal is successful, the FHSA has reconsidered the application in respect of which the appeal is made,

whichever is the latest.

(6) Where the FHSA receives only one application in connection with any vacancy it shall—

- (a) send the application to the Medical Practices Committee indicating in writing that it is the only application for that vacancy; and
- (b) notify the applicant in writing that it has done so.

Determination of applications by Medical Practices Committee

14.—(1) The Medical Practices Committee shall determine applications under regulation 5 in accordance with the following paragraphs of this regulation.

(2) Subject to paragraph (3), in relation to any such application, the Medical Practices Committee shall—

- (a) where the application is made under regulation 5(1), consider the report made by the FHSA with respect to the application and any representations in writing made by the doctor in accordance with regulation 5(8);
- (b) before granting the application, ascertain whether or not the applicant is suitably experienced as mentioned in section 31 of the Act; and
- (c) where it grants the application, consider—
 - (i) which of the conditions mentioned in regulation 15(1) is appropriate in the case of the applicant, and
 - (ii) whether it should impose in relation to the applicant any condition mentioned in section 33(4)(b) of the Act.

(3) The Medical Practices Committee shall not determine an application under regulation 5(1) until it has received any representations in writing made by the doctor in accordance with regulation 5(8) or until the time allowed for the making of representations has expired, whichever is the earlier.

(4) The Medical Practices Committee shall not consider any application made under regulation 5(2) unless the FHSA has indicated that—

- (a) the application is the only one for the vacancy in question; or
- (b) it has selected the application for consideration by that Committee.

(5) Subject to paragraph (6), any determination of the Medical Practices Committee shall be the decision of the majority of those members who are present and voting at a meeting of the Committee.

(6) At any such meeting, four members of the Medical Practices Committee shall form a quorum, and in the case of an equality of votes the chairman shall have a second or casting vote.

(7) The Medical Practices Committee shall give notice in writing to the applicant whose application it has considered, the FHSA and the Secretary of State of its determination of that

application, and shall inform any such applicant whose application is refused or granted subject to conditions of his right of appeal to the Secretary of State on a point of law.

(8) Where the Medical Practices Committee refuses an application under this regulation, it shall, when it gives notice to the applicant of its determination, include with the notice—

- (a) a statement of the reasons for its decision; and
- (b) in the case of an application under regulation 5(1), where the report from the FHSA to the Medical Practices Committee, made pursuant to regulation 5(3), (4), (5), or as the case may be, (6) supported the application, a copy of that part of the report.

Conditions under which general medical services are to be provided

15.—(1) For the purposes of section 33(4)(a) of the Act, the condition by reference to which the Medical Practices Committee shall specify the provision of general medical services for which the applicant will be entitled to be remunerated is that he shall provide such services as—

- (a) a full-time doctor, that is to say a doctor who is to provide general medical services during not less than 26 hours in any week in which he is, pursuant to paragraph 29 of his terms of service, normally available to provide such services;
- (b) a three-quarter-time doctor, that is to say a doctor who is to provide such services during less than 26 hours but not less than 19 hours in any such week;
- (c) a half-time doctor, that is to say a doctor who is to provide such services during less than 19 hours, but not less than 13 hours, in any such week;
- (d) a job-sharing doctor, that is to say a doctor—
 - (i) who is to practise in partnership with another doctor whose name is included in the medical list, and
 - (ii) who is himself to provide such services during less than 26 hours in any such week, and
 - (iii) for whom the hours during which he is to provide such services are, when aggregated with the hours of that other doctor, to amount to not less than 26 hours in any such week; or
- (e) a restricted doctor, that is to say a doctor—
 - (i) who is a restricted list principal or a restricted services principal, and
 - (ii) who is to provide general medical services during such number of hours in any week as he shall have specified in his application pursuant to regulation 5.

(2) Where on 1st January 1991 a doctor's name was included in the medical list, that doctor shall be treated as if the Medical Practices Committee had on that date imposed in relation to him—

- (a) where the doctor was at that date available for not less than 26 hours in any week, the condition mentioned in paragraph (1)(a);
- (b) where the doctor was at that date available for less than 26 hours but not less than 19 hours in any week, the condition mentioned in paragraph (1)(b);
- (c) where the doctor was at that date available for less than 19 hours but not less than 13 hours in any week, the condition mentioned in paragraph (1)(c);
- (d) where the doctor was at that date available jointly with another doctor for not less than 26 hours in any week, the condition mentioned in paragraph (1)(d); or
- (e) where the doctor was at that date a restricted list principal or a restricted services principal, the condition mentioned in paragraph (1)(e), but as if for the reference in that subparagraph to the hours specified by the doctor in his application, there was substituted a

reference to the hours for which the doctor was, in any week, normally available to his patients immediately before 1st January 1991.

Variation of conditions

16.—(1) A doctor whose name is included in a medical list may apply, in accordance with paragraph (2), for the variation of any condition—

- (a) imposed in relation to him by the Medical Practices Committee—
 - (i) under regulation 15(1) or treated, by virtue of regulation 15(2) as having been imposed by that Committee, in relation to the extent to which that doctor may carry out remunerated work, or
 - (ii) in accordance with section 33(4)(b) of the Act, excluding the provision by that doctor of general medical services in a specified part or parts of the locality of an FHSA; or
- (b) specified in relation to him by the Secretary of State on the determination of any appeal from a decision of the Medical Practices Committee.

(2) An application for the purposes of paragraph (1) shall be made in writing to the FHSA and shall include the information specified in Part VI of Schedule 3.

(3) On receipt of an application under this regulation, the FHSA shall forward the application to the Medical Practices Committee, together with its observations in writing on the application.

(4) Where the observations mentioned in paragraph (3) do not support the doctor's application under paragraph (1), the FHSA shall send to the doctor a copy of that part of those observations which do not support his application and the doctor may, within 14 days of receiving it, send to the Medical Practices Committee his representations in writing in response to the observations.

(5) The provisions of regulation 14(5) and (6) as respects the constitution and quorum of the Medical Practices Committee shall apply in the case of the determination by that Committee of an application under this regulation as they apply to the determination of an application under that regulation.

(6) The Medical Practices Committee shall not consider an application under this regulation until it has received representations from the doctor under paragraph (4) or until the time allowed under that paragraph for the making of representations has expired, whichever is the earlier.

(7) On consideration of an application under this regulation the Medical Practices Committee—

- (a) shall take account of the observations made by the FHSA and of any representations made by the doctor in response;
- (b) in determining the application, may refuse to vary the condition in question, or may—
 - (i) in the case of a condition mentioned in paragraph (1)(a)(i), vary the condition by imposing in relation to the doctor such other condition mentioned in regulation 15(1) (a) to (e) as has been requested in the application; and
 - (ii) in the case of a condition mentioned in paragraph (1)(a)(ii), vary the condition by specifying therein such other part or parts of the relevant locality (in which the doctor is to be excluded from providing general medical services) as that Committee considers appropriate,

(c) shall give notice of its decision in writing to the doctor and to the FHSA.

(8) Where the Medical Practices Committee refuses under paragraph (7)(b) to vary a condition it shall, when it gives notice to the doctor of its decision—

- (a) include with the notice—
 - (i) a statement of the reasons for its decision, and

- (ii) in any case where the observations made by the FHSA to the Medical Practices Committee in pursuance of paragraph (3) supported the application, a copy of that part of those observations, and
 - (b) advise the doctor in writing of his right of appeal under paragraph (10).
- (9) Where the Medical Practices Committee varies a condition in the manner mentioned in head (ii) of paragraph 7(b), it shall, when it gives notice to the doctor of its decision—
 - (a) include with the notice a statement of the reasons for its decision; and
 - (b) advise the doctor in writing of his right of appeal under paragraph (10).
- (10) A doctor may appeal to the Secretary of State on a point of law against the refusal of the Medical Practices Committee to vary a condition under this regulation or its variation of a condition in the manner mentioned in head (ii) of paragraph (7)(b), and—
 - (a) paragraphs (2) to (9) of regulation 17 shall apply to the making and determination of any such appeal; and
 - (b) where the Secretary of State allows such an appeal, he shall remit the application to that Committee for reconsideration, and regulation 17(11) shall apply in that event.

Appeal to the Secretary of State

- 17.—**(1) Any appeal to the Secretary of State on a point of law—
- (a) pursuant to section 33(2A)(c) of the Act by a doctor who has not been selected by an FHSA as mentioned in paragraph (c) of that subsection;
 - (b) pursuant to section 33(5) of that Act by a doctor whose application under section 30 of that Act has been refused by the Medical Practices Committee or has been granted by that Committee subject to conditions; or
 - (c) pursuant to regulation 16(10) (variation of conditions in connection with inclusion in a medical list),
- shall be made and determined in accordance with this regulation.
- (2) A doctor may appeal by sending to the Secretary of State a notice of appeal within 21 days of the date on which notice of the decision of the FHSA or, as the case may be, the Medical Practices Committee is sent to him.
 - (3) A notice of appeal shall contain a concise statement of any point of law in respect of which the doctor contends that the decision of the FHSA or, as the case may be, the Medical Practices Committee is erroneous.
 - (4) If it appears to the Secretary of State that the appeal is of such a nature that it can properly be determined without an oral hearing, he may dispense with an oral hearing and determine the appeal summarily, and shall communicate his decision, together with the reasons for it, in writing to the appellant, and the FHSA or, as the case may be, the Medical Practices Committee.
 - (5) If the Secretary of State is of the opinion that an oral hearing is required, he shall appoint—
 - (a) a person who is a barrister or a solicitor; and
 - (b) where the Secretary of State sees fit, one or more other persons,to hear the appeal.
 - (6) An oral hearing shall take place at such time and place as the Secretary of State may direct and, not less than 14 days before the date fixed for the hearing, notice of the hearing shall be sent to the appellant, the FHSA or, as the case may be, the Medical Practices Committee and in the case of an appeal mentioned in paragraph (1)(a), to the doctor whose application for appointment to the

vacancy to which the appellant's application relates was selected for consideration by the Medical Practices Committee.

(7) Subject to paragraphs (8) and (9), the procedure at the oral hearing shall be such as the person or persons hearing the appeal shall determine.

(8) The appellant and any of the parties to whom notice of the hearing is required to be given may attend and be heard in person or by counsel or solicitor or other representative.

(9) The FHSA or, as the case may be, the Medical Practices Committee, may be represented at the hearing by any duly authorised officer or member or by counsel or solicitor.

(10) The persons hearing the appeal shall make a report to the Secretary of State stating the relevant facts and their conclusions and the Secretary of State, after taking the report into consideration, shall give his decision and communicate it, together with the reasons for it, in writing to—

- (a) the appellant;
- (b) the FHSA or, as the case may be, the Medical Practices Committee; and
- (c) any doctor who has, under paragraph (6), been served with notice of the hearing.

(11) Where, on allowing an appeal, the Secretary of State remits an application to the FHSA or, as the case may be, to the Medical Practices Committee for reconsideration—

- (a) he shall give to that FHSA or, as the case may be, the Medical Practices Committee, such directions as appear to him to be desirable with a view to ensuring the proper determination of the application in accordance with the relevant law; and
- (b) the FHSA or, as the case may be, the Medical Practices Committee, shall redetermine the application and in so doing shall comply with any directions given by the Secretary of State under sub-paragraph (a) of this paragraph with respect to the determination of that application.

Certificate that transaction does not involve sale of goodwill

18. A certificate issued by the Medical Practices Committee under paragraph 1(3) of Schedule 10 to the Act shall be in the form set out in Schedule 7.

PART IV

GENERAL MEDICAL SERVICES OTHER THAN CHILD HEALTH SURVEILLANCE SERVICES, CONTRACEPTIVE SERVICES, MATERNITY MEDICAL SERVICES AND MINOR SURGERY SERVICES

Doctors' lists

19.—(1) In respect of each doctor in its medical list, an FHSA shall prepare and keep up to date a list of—

- (a) the patients in its locality accepted by or assigned to the doctor under this Part, otherwise than as temporary residents; and
- (b) the patients in its locality for whom the doctor has, under paragraph 18 of the terms of service, accepted responsibility during certain periods only.

(2) The FHSA shall from time to time give each doctor in its medical list the information described in Part VII of Schedule 3 with regard to persons included in or removed from his lists.

(3) Subject to regulation 22(7), a person accepted by a doctor for inclusion in his list shall be included in the list from the date on which notification of acceptance is received by the FHSA.

(4) Where a person for whose treatment a doctor is responsible dies, or is absent from the United Kingdom for a period of more than three months, he shall be removed from the doctor's list from the date on which the FHSA first receives notification of the death or that the absence has exceeded three months.

(5) Where a person for whose treatment a doctor is responsible—

- (a) leaves the United Kingdom with the intention of being away for a period of at least three months;
- (b) is in Her Majesty's forces;
- (c) is serving a prison sentence of more than two years or sentences totalling in the aggregate more than that period,

he shall be removed from the doctor's list from the date on which the FHSA first receives notification of the departure, enlistment or imprisonment.

(6) Any removal of a person from a doctor's list caused by the transfer of a person to the list of another doctor, otherwise than in pursuance of a notice under regulation 22(7) or (10), shall take effect—

- (a) from the date on which the FHSA receives notification of the acceptance of the person by the last-named doctor; or
- (b) subject to the consent of the FHSA, from such date, being not earlier than the date of that consent, as may be agreed between the doctors.

(7) Any other removal of a person from a doctor's list shall take effect from the date on which notice of removal is sent by the FHSA to the doctor or from such other date, not being earlier than that date, as may be specified in the notice.

Application for services

20.—(1) An application to a doctor for inclusion in his list for the provision of general medical services shall be made by delivering to the doctor a medical card or a form of application signed (in either case) by the applicant or a person authorised on his behalf.

(2) An application to a doctor for inclusion in his list 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 who is incapable of making such an application, by a relative or other adult person who has the care of such person; or
- (c) on behalf of any person under 18 years of age who is—
 - (i) in the care of an authority to whose care he has been committed under the provisions of the Children Act 1989, by a person duly authorised by that authority,
 - (ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by it.

Assignment of persons to doctors

21.—(1) Where—

- (a) a person who is not on the list of any doctor has been refused acceptance by a doctor for inclusion in his list; or

(b) a person has been refused acceptance by a doctor as a temporary resident, he may apply to the FHSA for assignment to a doctor, and the provisions of this regulation shall apply in relation to that application.

(2) An application under paragraph (1) shall be made in writing and shall be considered by the FHSA, which shall assign the applicant to such doctor in its medical list as it thinks fit, having regard to—

- (a) the respective distances between the person's residence and the practice premises of the doctors in the part of the locality in question;
- (b) whether within the previous six months the person has been removed from the list of any doctor in that part of the locality at the request of that doctor; and
- (c) such other circumstances, including those concerning the doctors in that part of the locality and their practices, as the FHSA think relevant,

and shall notify the doctor accordingly.

(3) Nothing in paragraph (2) shall—

- (a) require a doctor to provide child health surveillance services, contraceptive services, maternity medical services or minor surgery services for a patient who is assigned to him unless, pursuant to regulation 28, 29, 31 or 33, as the case may be, he has accepted that patient for the provision of such services; or
- (b) enable the FHSA to assign any person to a doctor whose list is at or exceeds the maximum permitted by regulation 24, without the consent of the Secretary of State.

(4) Where the Secretary of State refuses his consent for the purpose of paragraph (3)(b), and the FHSA is satisfied, after due enquiry, that the person concerned still wishes to be assigned to a doctor it shall, as soon as practicable, assign that person to another doctor or, as the case may be, seek the Secretary of State's consent, where required under paragraph (3)(b), for assignment to another doctor.

(5) A doctor to whom a person has been assigned by the FHSA under paragraph (2) or (4) may, within 7 days of receiving notice of it, make representations in writing to that FHSA against that assignment.

(6) Where representations are made under paragraph (5) the FHSA shall, subject to paragraphs (7) and (8), at its next meeting, review its initial assignment and shall either confirm or revise it.

(7) Where a doctor makes representations under paragraph (5), the FHSA shall, before meeting to confirm or revise the assignment, give that doctor the opportunity to address it in the course of an oral hearing in support of those representations.

(8) No person who participated in the making of an initial assignment under this regulation shall participate in a review under paragraph (6).

(9) The FHSA shall, within 7 days of making a determination under paragraph (7), notify the doctor accordingly, and, where an initial assignment made under paragraph (2) has been revised, it shall notify also the patient and the other doctor to whom the patient is assigned under the revised determination.

(10) A doctor who has made representations under paragraph (5) shall remain responsible for the treatment of the person assigned to him pending notification under paragraph (9) of the confirmation or revision of the assignment by the FHSA.

(11) The FHSA may exempt from the liability to have persons assigned to him under this regulation any doctor who applies to that FHSA for that purpose, and in considering such an application shall have regard to the doctor's age, state of health and the number of persons on his list and the FHSA shall notify any such doctor in writing of any decision under this paragraph.

Change of doctor

22.—(1) A person who is on a doctor’s list of patients may apply to any other doctor providing general medical services for acceptance on that other doctor’s list of patients.

(2) An application for the purposes of paragraph (1) shall be made in accordance with regulation 20.

(3) A person who has made an application under paragraph (1) and has been refused acceptance by any doctor may apply to the FHSA in whose locality he resides for assignment to a doctor whose name is included in the FHSA’s medical list.

(4) The FHSA shall inform a doctor as soon as practicable of the removal of a patient from his list on transfer to the list of another doctor.

(5) Subject to paragraphs (6) to (8), the FHSA shall, on the death of, or on the removal or withdrawal from the medical list of the name of any doctor, notify the persons on the list of that doctor of the death, removal or withdrawal.

(6) Where a successor is appointed to a practice the FHSA shall, by notice in writing, inform the persons on the list of the doctor who last carried on that practice of the name of the successor (and, if more than one, of each of them) and of the names of any partners and of the address of their practice premises.

(7) The notice mentioned in paragraph (6) shall state that the person to whom it is given will be deemed, from the date specified in the notice, to be on the list of a named successor, unless that person within 14 days of that date gives notice in writing to the FHSA that he does not wish to be included in that list.

(8) Where no successor is to be appointed to a practice, the FHSA shall notify the persons on the list of the doctor who last carried on that practice of their right to apply to another doctor in the medical list for acceptance.

(9) A doctor who has returned to his practice at the end of a period of relevant service shall, within one month of his return, notify the FHSA in writing that he has resumed practice.

(10) Where the FHSA has been so notified it shall, within 28 days, send a notice to every person who—

(a) was on the doctor’s list at the beginning of such service; and

(b) is still residing at the address at which he was then residing and who has been transferred by reason only of the doctor’s departure on relevant service to the list of another doctor,

stating that the first doctor has resumed practice and that the person will be restored to his list unless, not later than 14 days after the date of the notice, that person gives notice in writing to the FHSA that he wishes to remain on the list of the other doctor.

(11) After the expiry of the period of 14 days mentioned in paragraph (10), the FHSA shall inform each of the other doctors concerned of the persons who are transferred from his list to the list of the first doctor and shall also inform each of those other doctors of the persons who have elected to remain on his list.

(12) Where a doctor is relieved of the obligation to provide services at certain periods under paragraph 18 of the terms of service—

(a) the FHSA shall notify the persons on his list of the fact and the terms of the relief; and

(b) if the doctor subsequently resumes responsibility for providing services at all times, the FHSA shall notify the persons on his list of the fact.

(13) Nothing in this regulation shall require the FHSA to give any notice concerning the making or termination of arrangements under regulation 25.

Removal from doctor's list

23.—(1) Where a person no longer wishes to avail himself of general medical services—

- (a) he may at any time give notice to the FHSA that he wishes to be removed from a doctor's list; and
- (b) the FHSA shall notify him and the doctor concerned that on a specified date, being 14 days after the date of the receipt of the notice by the FHSA, his name will be removed from the doctor's list.

(2) Subject to paragraph (4), where the FHSA is satisfied that a person on the list of a doctor providing general medical services in its locality no longer resides at a place where that doctor is under an obligation under these Regulations to visit and treat him, the FHSA shall—

- (a) inform that person and the doctor that the doctor is no longer obliged to visit and treat the person;
- (b) advise the person either to obtain the doctor's agreement under paragraph 13(1)(b)(ii) of the terms of service to visit him if his condition so requires, or to seek acceptance by another doctor; and
- (c) inform the person that if, after the expiration of 30 days from the date of the letter of advice mentioned in sub-paragraph (b), he has not acted in accordance with the advice, the FHSA will remove him from the doctor's list.

(3) If at the expiration of the period of 30 days referred to in paragraph (2)(c) the FHSA has not been notified of the action taken, it shall remove the patient from the doctor's list and inform him and the doctor accordingly.

(4) Where a person on the list of a doctor providing general medical services has moved to an address outside the FHSA's locality or the address of that person is no longer known to the FHSA, the FHSA shall—

- (a) give to that doctor notice in writing that it intends, at the end of the period of six months commencing with the date of the notice, to remove the person from the doctor's list; and
- (b) at the end of that period, remove the person from the doctor's list, unless within that period the doctor satisfies the FHSA that he is still responsible for providing general medical services for that person, including visiting and treating him when necessary.

(5) Where the FHSA receives particulars of persons who are pupils at, or staff or residents of, a school or residential institution where a doctor provides general medical services, it shall remove from that doctor's list any persons appearing on his list as pupils at, or staff or residents of, that school or institution who are not shown in those particulars.

(6) Where the FHSA has made a request to a school or residential institution to provide the particulars mentioned in paragraph (5) and has not received them, it may, after consulting the doctor, remove from the doctor's list any persons appearing on the list as pupils at, or staff or residents of, the school or institution.

Limitation on number of persons on doctors' lists

24.—(1) This regulation applies as to the aggregate maximum number ("the maximum number") of persons a doctor may have on his list in all localities in which he provides general medical services in addition to—

- (a) any persons for whom under paragraph 18 of the terms of service he has accepted responsibility during certain periods only; and
- (b) any persons whom he has accepted for the provision of contraceptive services only.

(2) Except as otherwise provided in this regulation, the maximum number shall be—

- (a) 3,500, for a doctor carrying on practice otherwise than as an assistant or in a partnership;
- (b) 4,500 for a doctor carrying on practice in partnership, subject to a maximum average of 3,500 for each of the partners in the practice,

and, where the doctor employs an assistant, such further number not exceeding 2,000 for each assistant as the FHSA, or, on appeal, the Secretary of State, may decide in the light of the circumstances of the practice and the amount of time given to it by any assistant.

(3) For the purposes of determining the maximum number of persons on the list, the number of persons on the list of an assistant who is a doctor with a list of his own, shall be regarded as being on the list of the doctor by whom he is employed.

(4) For the purposes of paragraph (2), a doctor who is in partnership shall be deemed to be an assistant, and not a partner, unless the FHSA or, on appeal, the Secretary of State is satisfied that—

- (a) he discharges the duties and exercises the powers of a partner in connection with the practice of the partnership; and,
- (b) either—
 - (i) in the case of a full-time doctor, he is entitled to a share of the profits which is not less than one third of the share of the partner with the greatest share, or
 - (ii) in the case of a three-quarter-time doctor, he is entitled to a share of the profits which is not less than one quarter of the share of the partner with the greatest share, or
 - (iii) in the case of a half-time doctor, he is entitled to a share of the profits which is not less than one fifth of the share of the partner with the greatest share, or
 - (iv) in the case of a job-sharing doctor who practises in partnership with another job-sharing doctor and at least one further doctor, he is entitled to a share of the profits which, when added to the share of the other job-sharing doctor with whose hours his hours are being aggregated for the purposes of regulation 15(1)(d), is not less than one third of the share of the member of the partnership with the greatest share.

(5) The FHSA shall notify each doctor of the number of patients on his list as at the first day of each period of three months ending 31st March, 30th June, 30th September and 31st December and of the number of any excess over the maximum number.

(6) Subject to paragraphs (10) to (12), if there is an excess, the doctor shall, within two months from the date on which the excess was notified to him, take steps to reduce his list to the maximum number by—

- (a) taking a partner;
- (b) engaging an assistant; or
- (c) notifying the FHSA of the names of the necessary number of patients on his list whom he wishes to have removed from his list under paragraph 9 or 10 of the terms of service,

and if at the end of that time such measures have not been completely effective, the FHSA shall remove from his list the necessary number of patients, the selection of such patients being at the discretion of the FHSA.

(7) Where—

- (a) a doctor gives notice under paragraph (6)(c); or
- (b) a doctor whose name is included in the medical list in respect of more than one address and who ceases to practise at one of them, informs the FHSA of his wish to have removed from his list the persons who would have attended for treatment at the address at which he will no longer practise,

the FHSA shall, subject to paragraph (8), send a notice to each person so named to inform him that he should apply to another doctor for acceptance.

(8) Where the FHSA, after consulting the Local Medical Committee, accepts an application from the doctor for the notices under paragraph (7) to name another doctor who—

- (a) is willing to accept the person on his list; and
- (b) has given his written consent in circumstances where such acceptance will not result in an excess number of patients on that other doctor's list (or if that other doctor is in partnership, on the average of the partnership lists),

the notices shall be issued accordingly and the name of any such person shall be included on the list of the doctor named in the notice until such time as the person has chosen another doctor or has informed the FHSA in writing that he wishes not to be so included.

(9) Where an excess number of patients is due to—

- (a) the creation of a partnership of which the doctor is a member; or
- (b) the death or retirement of a partner or the cessation of employment of an assistant in circumstances where the doctor is actively seeking a new partner or assistant,

the FHSA may, on the doctor's undertaking not to accept further patients other than the children of existing patients, permit him to retain, for such period not exceeding nine months as it may determine from the date of the event which gave rise to the excess number, all the patients on his list (and in a case within sub-paragraph (b) above, on the list, if any, of his former partner or assistant) at that date.

(10) In carrying out its function under this regulation the FHSA shall consult as necessary with any other FHSA whose medical list includes a doctor concerned.

(11) Nothing in this regulation shall—

- (a) restrict a doctor from accepting persons who apply to him as temporary residents; or
- (b) exempt him from any liability under the terms of service to give treatment immediately required to any person who applies for acceptance or to give emergency treatment.

(12) An appeal under paragraph (2) or (4) shall be made by sending to the Secretary of State a notice of appeal within 30 days of the date on which notice of the decision of the FHSA was given and the notice of appeal shall contain a concise statement of the grounds of appeal.

(13) The Secretary of State shall, on receipt of any notice of appeal under this regulation, send a copy of that notice to the FHSA.

(14) The FHSA may, within 30 days from the date on which the Secretary of State sent a copy of the notice of appeal, submit representations in writing to him on the appeal.

(15) On any appeal pursuant to paragraph (2) or (4), the Secretary of State may, if he thinks fit, hold an oral hearing and in such a case shall—

- (a) appoint one or more persons to hear the appeal who shall report to him on the appeal; and
- (b) not less than 14 days before the date fixed for the hearing, give notice in writing to the appellant and to the FHSA.

(16) The Secretary of State shall, upon determination by him of an appeal under this regulation, give notice of his decision in writing, together with the reasons for it, to the appellant and to the FHSA.

Temporary provision of services

25.—(1) This regulation applies to the making of arrangements for the temporary provision of general medical services.

(2) Where a doctor ceases to be included in the medical list or his registration is suspended as mentioned in section 29(8) of the Act(18), the FHSA may, after consultation with the Local Medical Committee—

- (a) make arrangements, for the temporary provision of general medical services for that doctor's patients, which may consist of or include the appointment of one or more doctors to undertake the treatment of such persons; and
- (b) where—
 - (i) the doctor was included in a medical list by virtue of regulation 4(1)(a) and ceases by reason of death to be so included, and
 - (ii) within 7 days of the date of death, any person applies to the FHSA in writing on behalf of the estate of that doctor for the appointment of one or more named doctors, appoint one or more of the named doctors to undertake the treatment of the deceased doctor's patients.

(3) The FHSA may make such arrangements as it thinks fit for the accommodation and other needs of any doctor appointed under paragraph (2) and, in the case of any doctor appointed under paragraph (2)(b), shall, where practicable, first consult the person who applied to it for the appointment of that doctor.

(4) Subject to paragraph (10), arrangements under paragraph (2) shall subsist for such period as the FHSA may determine, but not beyond the date on which the vacancy is filled or the suspension referred to in paragraph (2) ceases to have effect.

(5) Where it appears to the FHSA, after consultation with the Local Medical Committee, that a doctor is incapable of adequately carrying out his obligations under the terms of service because of his physical or mental condition, it may require him to be medically examined.

(6) Where the FHSA is satisfied—

- (a) after receiving from the Local Medical Committee a report under paragraph (9), that because of his physical or mental condition; or
- (b) that because of his continued absence,

a doctor's obligations under the terms of service are not being adequately carried out, it may, after consultation with the Local Medical Committee and with the consent of the Secretary of State, make arrangements for the temporary provision of general medical services for that doctor's patients which may consist of or include the appointment of one or more doctors to undertake the treatment of such persons, and may vary such arrangements as necessary.

(7) Subject to paragraph (10), arrangements under paragraph (6) shall subsist for such period as the FHSA may determine, but not, in a case to which paragraph (6)(a) applies, beyond the date (if any) on which the FHSA is satisfied, after consulting the Local Medical Committee, that the doctor is fit to resume his practice.

(8) Before varying or terminating any arrangements made under paragraph (6), but after consulting the Local Medical Committee, the FHSA may require the doctor to be medically examined.

(9) Where under paragraph (5) or (8) a doctor is required to be medically examined—

- (a) he shall submit himself for medical examination by a doctor appointed by the Local Medical Committee; and

(18) Section 29(8) was amended by paragraph 2(2) of Schedule 6 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41).

- (b) the Local Medical Committee, having considered the report of the examining doctor, shall make a report in writing to the FHSA as to the doctor's fitness to carry out his obligations under the terms of service.
- (10) Where the FHSA proposes that the arrangements under paragraph (2) or (6) shall continue—
- (a) for longer than one year;
 - (b) for such shorter period as the Secretary of State may specify in any particular case; or
 - (c) beyond any further such period,
- it shall so notify the Secretary of State in writing not less than 30 days, or as soon as is practicable, before the expiry of that period or further period and shall, in each case, obtain the consent of the Secretary of State to the continuance of the arrangements.
- (11) The FHSA shall—
- (a) give reasonable notice in writing of the termination of arrangements under paragraph (2) or (6) to the doctor with whom they were made; and
 - (b) as soon as is practicable, notify the Secretary of State in writing that such termination has taken place.
- (12) The FHSA shall, where practicable, notify in writing any doctor for the treatment of whose patients arrangements are made under this regulation of such arrangements and of their variation or termination.
- (13) A doctor appointed under this regulation shall agree in writing to be bound throughout his appointment by the terms of service which were applicable to the doctor the treatment of whose patients he is appointed (with or without other doctors) to undertake, except that nothing in this regulation shall require him to provide child health surveillance services, contraceptive services, maternity medical services or minor surgery services which he has not undertaken to provide.
- (14) Any person on the list of the doctor for the treatment of whose patients arrangements are made under this regulation shall be deemed to remain on that list while those arrangements subsist, unless that person is transferred to the list of another doctor, and any person who applies to the doctor appointed under this regulation for acceptance shall, if accepted, be recorded by the FHSA as being—
- (a) where that doctor is included in the medical list by virtue of regulation 4(1)(a), on his list; and
 - (b) in any other case, on the list of the doctor for the treatment of whose patients arrangements are made under this regulation.
- (15) The FHSA—
- (a) may deduct from the remuneration of a doctor—
 - (i) for the treatment of whose patients arrangements are made under paragraph (6), or
 - (ii) consequent upon the suspension of whose registration arrangements are made under paragraph (2)(a),
 the cost, in whole or in part, of any such arrangements; and
 - (b) in the case of a doctor performing relevant service, shall deduct from his remuneration the cost of any such arrangements.
- (16) In the application of the Act to the making of arrangements for the temporary provision of general medical services and the provision of such services in pursuance of those arrangements—
- (a) section 29(4) (which prohibits, with exceptions, payment of a fixed salary) shall have effect as if the words “otherwise than temporarily” were inserted after the words “general medical services”; and

- (b) section 30(1A) (which contains requirements as to knowledge of English) shall apply to a doctor appointed under this regulation, and in respect of any such doctor section 30(1A) shall have effect as if for the words from “shall be entitled” to “referred to the Medical Practices Committee” there were substituted the words “shall be appointed to provide general medical services temporarily” and as if the words “and where” to the end of the subsection were omitted.

Temporary residents

26.—(1) A person requiring treatment who—

- (a) is not on the list of a doctor providing general medical services in the area of the locality where he is temporarily residing;
- (b) normally resides in a school or similar institution in the locality but is temporarily residing at home in that locality;
- (c) normally resides at home in the locality but is temporarily residing in any institution in that locality; or
- (d) is moving from place to place and is not for the time being resident in any place,

may apply to any doctor providing services in the locality 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 3 months.

(3) Subject to paragraph (4), a person mentioned in sub-paragraph (a), (b) or (c) of paragraph (1) who is accepted as a temporary resident shall not be removed from the list of any doctor in which he is already included.

(4) If the FHSA for the locality in which the temporary resident is included in any doctor’s list is satisfied, after due enquiry—

- (a) that his stay in the locality of temporary residence has exceeded 3 months; and
- (b) that he has not returned to that FHSA’s locality,

it shall thereupon remove him from that doctor’s list and, if practicable, inform him of that fact and of his entitlement to seek acceptance by any doctor, including the doctor by whom he has been treated as a temporary resident, in the locality in which he is living, and of the name and address of the FHSA for that locality.

PART V

CHILD HEALTH SURVEILLANCE SERVICES, CONTRACEPTIVE SERVICES, MATERNITY MEDICAL SERVICES AND MINOR SURGERY SERVICES

Child health surveillance list

27.—(1) The FHSA shall maintain a list (in these Regulations referred to as “a child health surveillance list”) of the names of those doctors who have satisfied the FHSA or, on appeal, the Secretary of State, in accordance with the following provisions of this regulation, that they have such medical experience and training as are necessary to enable them properly to provide child health surveillance services.

(2) A doctor may apply, in accordance with paragraph (3), to the FHSA for the inclusion of his name in the child health surveillance list required to be maintained by that FHSA.

(3) An application for the purpose of paragraph (2) shall be made in writing and shall include the information specified in Part VIII of Schedule 3 to these Regulations.

(4) Unless the doctor otherwise agrees, the FHSA shall determine an application made in accordance with paragraph (3) within 2 months of receiving it.

(5) The FHSA may, if it thinks fit, hold an oral hearing of any application and shall not refuse an application without giving the doctor an opportunity of an oral hearing.

(6) Where the FHSA decides to hold an oral hearing, it shall, not less than 14 days before the date fixed for the hearing, give notice in writing to the doctor.

(7) When determining an application the FHSA shall have regard in particular to—

- (a) any post-graduate qualification held by him; and
- (b) any training undertaken by the doctor and any medical experience gained by him, during the period of five years immediately preceding the date of the application,

which is relevant to the provision of child health surveillance services, and shall seek and take into account any medical advice it considers necessary to enable it to determine the application.

(8) The FHSA shall determine an application by either—

- (a) granting the application; or
- (b) refusing the application.

(9) The FHSA shall give notice in writing to the doctor of its determination and shall—

- (a) where it refuses the application, inform him of the reasons for the determination and of his right of appeal under paragraph (10);
- (b) where it grants the application, include the doctor's name in its child health surveillance list.

(10) If an application is refused the doctor may appeal in writing to the Secretary of State within 30 days of receiving notice in writing of the FHSA's determination.

(11) On any appeal pursuant to paragraph (10) or (16), 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 who shall report to him on the appeal, and
 - (ii) not less than 14 days before the date fixed for the hearing, give notice in writing to the appellant and to the FHSA;
- (b) in determining the appeal, shall either confirm or reverse the determination of the FHSA and shall communicate his decision, together with the reasons for it, to the appellant and to the FHSA;
- (c) where he reverses the determination of the FHSA, shall direct that the FHSA include the doctor's name in its child health surveillance list.

(12) Subject to paragraphs (13) to (17), a doctor's name may be removed by the FHSA from the child health surveillance list only if—

- (a) it has been removed from the medical list of any FHSA pursuant to regulation 6(3) or regulation 7; or
- (b) the FHSA has determined that the doctor has not provided child health surveillance services at any time during the past 5 years;

(13) Before making any determination under sub-paragraph (b) of paragraph (11) the FHSA shall—

- (a) give the doctor 30 days' written notice of its intention to do so; and

(b) afford the doctor an opportunity of making representations in writing or, if he so desires, orally to the FHSA.

(14) Where the FHSA makes a determination under sub-paragraph (b) of paragraph (12), it shall send to the doctor a notice which shall include a statement—

(a) to the effect that, subject to any appeal under paragraph (15), the doctor's name will, after 30 days from the date of the notice, be removed from the child health surveillance list maintained by the FHSA;

(b) of the FHSA's reasons for its determination; and

(c) of the doctor's right of appeal under paragraph (15).

(15) A doctor who has received a notice sent in accordance with paragraph (14) may, within 21 days of receiving it, appeal to the Secretary of State against the determination of the FHSA, and pending the determination of the appeal, the FHSA shall not remove his name from the child health surveillance list.

(16) An appeal to the Secretary of State shall be made in writing and shall include a statement of the grounds of appeal and on any such appeal the Secretary of State shall, if he allows the appeal, direct that the FHSA shall not remove the doctor's name from the child health surveillance list.

(17) The FHSA shall comply with any direction given to it under this regulation.

(18) Where the Secretary of State holds an oral hearing of an appeal pursuant to paragraph (11), the appellants and the FHSA may be represented by counsel, solicitor or any other person.

Obtaining child health surveillance services

28.—(1) A parent may, in relation to a child of his who is under the age of 5 years, apply to a doctor—

(a) who is—

(i) the doctor on whose list the child is included (in this paragraph referred to as "the child's doctor"),

(ii) a doctor with whom the child's doctor is in partnership, or

(iii) a doctor with whom the child's doctor is associated in a group practice; and

(b) whose name is included in any medical list and in the child health surveillance list of the FHSA,

for the provision of child health surveillance services in respect of that child for a period ending on the date on which that child attains the age of 5 years.

(2) A doctor whose name is included in the medical list may, in respect of any person on his list or on the list of a doctor with whom he is in partnership or with whom he is associated in a group practice, undertake to provide child health surveillance services provided that—

(a) his name is also included in the child health surveillance list, and

(b) the person in question is a child who is under the age of 5 years.

(3) A doctor who has undertaken, pursuant to paragraph (2), to provide child health surveillance services to any child shall, in respect of that child—

(a) provide all the services described in paragraph 1 of Schedule 4 to these Regulations, other than any examination so described which the parent refuses to allow the child to undergo, until the date upon which the child attains the age of 5 years;

(b) maintain such records as are specified in paragraph 2 of that Schedule; and

(c) furnish the relevant health authority with such information as is specified in paragraph 3 of that Schedule in accordance with the requirements of that paragraph.

(4) An undertaking to provide child health surveillance services shall cease forthwith to be effective if—

- (a) either—
 - (i) the parent informs the doctor, or
 - (ii) the doctor informs the parent,
 that he wishes the undertaking to have no further effect;
- (b) the child has been removed from the doctor’s list, from that of his partner or from that of a doctor with whom he is associated in a group practice, as the case may be, and has not been transferred to any other of those lists;
- (c) the parent—
 - (i) has been invited to arrange for the child to attend for an examination referred to in paragraph 1(b) of Schedule 4 to these Regulations, and
 - (ii) fails within 42 days to respond to that invitation; or
- (d) any examination referred to in paragraph 1(b) of that Schedule is undertaken in respect of the child otherwise than by the doctor or a person acting on his behalf.

(5) Where in accordance with paragraph (4), an undertaking has ceased to be effective, the doctor shall forthwith—

- (a) in a case to which any of heads (a), (c) or (d) of that sub-paragraph applies, so inform the FHSA in writing; and
- (b) in a case to which head (c) or (d) of that sub-paragraph applies, also so inform the parent in writing.

Obtaining contraceptive services

29.—(1) Whether or not she is included in his list for the provision of other personal medical services, a woman may apply to a doctor who has undertaken to provide contraceptive services to be accepted by him for the provision of those services.

(2) An application under paragraph (2) shall be for the provision of such services for a period of 12 months from the date of acceptance, but either the woman or the doctor may terminate the provision at any time during that period.

(3) On any such termination or at the end of the period of 12 months, as the case may be, the woman may apply (or re-apply) to a doctor in accordance with paragraph (2).

(4) A woman may apply to a doctor who has undertaken to provide contraceptive services in a locality or part of a locality in which she is temporarily resident, to be accepted by him for the provision to her, as a temporary resident, of contraceptive services.

(5) Where a woman has been accepted by a doctor for the provision to her of contraceptive services under paragraph (4), paragraph 4 of regulation 26 shall apply to terminate that provision.

Obstetric list

30.—(1) The FHSA shall maintain a list (in these Regulations referred to as “the obstetric list”) of the names of—

- (a) those doctors who, on 31st March 1992, were included in an obstetric list maintained by that FHSA; and
- (b) those doctors who have satisfied the FHSA or, on appeal, the Secretary of State, in accordance with the following provisions of this regulation, that they have such medical experience and training as are necessary to enable them to be included in the obstetric list.

(2) A doctor may apply, in accordance with paragraph (3), to the FHSA for the inclusion of his name in the obstetric list maintained by that FHSA.

(3) An application for the purpose of paragraph (2) shall be made in writing and shall include the information specified in Part X of Schedule 3.

(4) Unless the doctor otherwise agrees, the FHSA shall determine an application made in accordance with paragraph (3) within 2 months of receiving it.

(5) Subject to paragraphs (6) and (7), the FHSA shall grant an application by a doctor for the inclusion of his name in the obstetric list where it is satisfied that the applicant has undertaken such training and has such experience relevant to the provision of maternity medical services as are sufficient to enable him to be included in the obstetric list.

(6) Before reaching any decision under paragraph (4), the FHSA—

- (a) may hold an oral hearing and shall not decide to refuse an application without giving the doctor an opportunity of an oral hearing;
- (b) shall have regard to whether or not the applicant satisfies one or more of the criteria set out in Schedule 5, Part I; and
- (c) shall seek, and take into account, any medical advice it considers necessary to enable it to determine the application provided that where it seeks such advice, it shall consult the Local Medical Committee.

(7) Where the FHSA decides to hold an oral hearing, it shall, not less than 14 days before the date fixed for the hearing, give notice in writing to the doctor.

(8) Where the FHSA is considering whether to grant an application in a case where the applicant satisfies none of the criteria set out in Schedule 5, Part I, it shall consult the Local Medical Committee.

(9) The FHSA shall determine an application by either—

- (a) granting the application; or
- (b) refusing the application.

(10) The FHSA shall inform the doctor in writing of its determination and shall—

- (a) where it refuses the application, give notice in writing to him of the reasons for the determination and of his right of appeal under paragraph (11);
- (b) where it grants the application, forthwith include the doctor's name in its obstetric list.

(11) If an application is refused the doctor may appeal in writing to the Secretary of State within 30 days of receiving notice in writing of the FHSA's determination.

(12) On any appeal pursuant to paragraph (11) or (16), 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 who shall report to him on the appeal, and
 - (ii) not less than 14 days before the date fixed for the hearing, give notice in writing to the appellant and to the FHSA;
- (b) in determining the appeal, shall either confirm or reverse the determination of the FHSA and shall communicate his decision, together with the reasons for it to the appellant and to the FHSA; and
- (c) where he reverses the determination of the FHSA, he shall direct that the FHSA include the doctor's name in its obstetric list.

(13) Subject to paragraphs (14) to (16), a doctor's name may be removed from the obstetric list only if—

- (a) it has been removed from the medical list of any FHSA pursuant to regulation 6(3) or 7; or
 - (b) the FHSA has determined that the doctor has not provided maternity medical services at any time during the past 5 years.
- (14) Before making any determination under sub-paragraph (b) of paragraph (13) the FHSA shall—
- (a) give the doctor 30 days' written notice of its intention to do so; and
 - (b) afford the doctor an opportunity of making representations in writing or, if he so desires, orally to the FHSA.
- (15) Where the FHSA makes a determination under sub-paragraph (b) of paragraph (13), it shall send to the doctor a notice which shall include a statement—
- (a) to the effect that, subject to any appeal under paragraph (15), the doctor's name will, after 30 days from the date of the notice, be removed from the obstetric list maintained by the FHSA;
 - (b) of the FHSA's reasons for its determination; and
 - (c) of the doctor's right of appeal under paragraph (16).
- (16) A doctor who has received a notice in accordance with paragraph (15) may, within 21 days of receiving it, appeal to the Secretary of State against the determination, and pending the determination of the appeal the FHSA shall not remove his name from the obstetric list.
- (17) An appeal to the Secretary of State under paragraph (16) shall be made in writing and shall include a statement of the grounds of appeal and on any such appeal the Secretary of State shall, if he allows the appeal, direct that the FHSA shall not remove the doctor's name from the obstetric list.
- (18) The FHSA shall comply with any direction given to it under this regulation.
- (19) Where the Secretary of State holds an oral hearing of an appeal pursuant to paragraph (12) the appellants and the FHSA may be represented by counsel, solicitor or any other person.

Obtaining maternity medical services

- 31.**—(1) Maternity medical services shall comprise—
- (a) the provision of personal medical services to a woman during the ante-natal period;
 - (b) the provision of personal medical services to a woman during labour;
 - (c) the provision of personal medical services to a woman and to her baby, as specified in paragraph 3(b) of Part II of Schedule 5, during the post-natal period; and
 - (d) the provision of a full post-natal examination.
- (2) A woman who, after a doctor has diagnosed that she is pregnant, requires the provision of maternity medical services may arrange for the provision of any or all of the services mentioned in paragraph (1) with—
- (a) any doctor in the obstetric list;
 - (b) the doctor on whose list she is included; or
 - (c) any doctor who has accepted her as a temporary resident.
- (3) A doctor with whom a woman has made an arrangement under paragraph (2) for the provision of any or all of the services mentioned in paragraph (1) shall provide such services as are specified in Part II of Schedule 5.
- (4) The provisions of regulation 20 shall apply to the making of an arrangement by a woman with a doctor for the provision of any or all of the services mentioned in paragraph (1) as they apply to the making of an application for inclusion in a doctor's list.

(5) An arrangement between a woman and a doctor for the provision of any or all of the services mentioned in paragraph (1) may be terminated—

(a) by the woman—

(i) so informing the FHSA in writing,

(ii) so informing the doctor in writing who shall within 7 days notify the FHSA in writing, or

(iii) making a new arrangement with another doctor who shall within 7 days notify the FHSA in writing of the new arrangement;

(b) by the doctor making an application under paragraph 11 of the terms of service; or

(c) where the woman is a temporary resident, when—

(i) she ceases to be resident in the doctor's practice area, or

(ii) the doctor's responsibility for her is terminated under paragraph 10 of the terms of service,

whichever first occurs.

(6) Where the FHSA receives notification in accordance with paragraph (5)(a)(i) or (iii), it shall within 7 days notify the original doctor in writing that the woman's arrangement with him has been terminated.

(7) In this regulation and in Schedule 5 "ante-natal period" means the duration of a woman's pregnancy until the onset of labour and "post-natal period" means the period of 14 days following the conclusion of a pregnancy.

Minor surgery list

32.—(1) The FHSA shall maintain a list (in these Regulations referred to as "the minor surgery list") of the names of those doctors who have satisfied the FHSA or, on appeal, the Secretary of State in accordance with the following provisions of this regulation that they have such medical experience, training and facilities as are necessary to enable them properly to provide all of the procedures listed in Schedule 6.

(2) A doctor may apply in accordance with paragraph (3), to a FHSA for the inclusion of his name in the minor surgery list maintained by that FHSA.

(3) An application for the purpose of paragraph (2) shall be made in writing and shall include the information specified in Part IX of Schedule 3.

(4) Unless the doctor otherwise agrees, the FHSA shall determine an application made in accordance with paragraph (3) within 2 months of receiving it.

(5) The FHSA may, if it thinks fit, hold an oral hearing of any application and shall not refuse an application without giving the doctor an opportunity of an oral hearing.

(6) Where the FHSA decides to hold an oral hearing, it shall, not less than 14 days before the date fixed for the hearing, give notice in writing to the doctor.

(7) When determining an application the FHSA shall have regard—

(a) for the purpose of assessing the doctor's medical experience and training, to any—

(i) post-graduate qualification held by him,

(ii) any training undertaken by him and any medical experience gained by him, during the period of five years immediately preceding the date of the application,

which is relevant to the provision of minor surgery services;

(b) for the purpose of assessing the doctor's facilities, to the premises and the equipment to be used by the doctor in the provision of minor surgery services,

and shall seek and take into account any medical advice it considers necessary to enable it to determine the application.

- (8) The FHSA shall determine an application by either—
 - (a) granting the application; or
 - (b) refusing the application.
- (9) The FHSA shall inform the doctor in writing of its determination and shall—
 - (a) where it refuses the application, give notice in writing to him of the reasons for the determination and of his right of appeal under paragraph (10); or
 - (b) where it grants the application, forthwith include the doctor's name in its minor surgery list.
- (10) If an application is refused the doctor may appeal in writing to the Secretary of State within 30 days of receiving notice in writing of the FHSA's determination.
- (11) On any appeal pursuant to paragraph (10) or (15) 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 who shall report to him on the appeal, and
 - (ii) not less than 14 days before the date fixed for the hearing, give notice in writing to the appellant and to the FHSA;
 - (b) in determining the appeal, shall either confirm or reverse the determination of the FHSA and shall communicate his decision, together with the reasons for it, to the appellant and to the FHSA; and
 - (c) where he reverses the determination of the FHSA, shall direct that the FHSA include the doctor's name in its minor surgery list.
- (12) Subject to paragraphs (13) to (18), a doctor's name may be removed from the minor surgery list only if—
 - (a) it has been removed from the medical list of any FHSA pursuant to regulation 6(3) or regulation 7; or
 - (b) the FHSA has determined that the doctor has not provided minor surgery services at any time during the past 5 years.
- (13) Before making any determination under sub-paragraph (b) of paragraph (12) the FHSA shall—
 - (a) give the doctor 30 days' written notice of its intention to do so; and
 - (b) afford the doctor an opportunity of making representations in writing or, if he so desires, orally to the FHSA.
- (14) Where the FHSA makes a determination under sub-paragraph (b) of paragraph (12), it shall send to the doctor a notice in writing which shall include a statement—
 - (a) to the effect that, subject to any appeal under paragraph (15), the doctor's name will, after 30 days from the date of the notice, be removed from the minor surgery list maintained by the FHSA;
 - (b) of the FHSA's reasons for its determination; and
 - (c) of the doctor's right of appeal under paragraph (15).
- (15) A doctor who has received a notice in accordance with paragraph (14) may, within 21 days of receiving it, appeal to the Secretary of State against the determination, and pending the determination of the appeal, the FHSA shall not remove his name from the minor surgery list.

(16) An appeal under paragraph 15 to the Secretary of State shall be made in writing and shall include a statement of the grounds of appeal and on any such appeal the Secretary of State shall, if he allows the appeal, direct that the FHSA shall not remove the doctor's name from the minor surgery list.

(17) The FHSA shall comply with any direction given to it under this regulation.

(18) Where the Secretary of State holds an oral hearing of an appeal pursuant to paragraph (11) (a), the appellant and the FHSA may be represented by counsel, solicitor or any other person.

Obtaining minor surgery services

33.—(1) A person may apply either in writing or in person to a doctor—

(a) who is—

(i) the doctor in whose list he is included (in this paragraph referred to as “his own doctor”),

(ii) a doctor with whom his own doctor is in partnership, or

(iii) a doctor with whom his own doctor is associated in a group practice; and

(b) whose name is included in the medical list and the minor surgery list of the FHSA,

for the provision of a procedure specified in Schedule 6 to these Regulations and the provisions of regulation 20(2) shall apply to that application as if the reference in regulation 20(2) to an application to a doctor for inclusion in his list were a reference to an application to a doctor for minor surgery services.

(2) A doctor whose name is included in the medical list may, in respect of any person on his list or on the list of a doctor with whom he is in partnership or with whom he is associated in group practice, undertake to provide minor surgery services, provided that his name is included in the minor surgery list.

(3) A doctor who has undertaken, pursuant to paragraph (2), to provide minor surgery services in respect of any patient shall offer to provide any of the procedures described in Schedule 6 which it is, in his opinion, appropriate for him to provide in the case of that patient.

(4) Where a doctor provides minor surgery services in respect of a patient who is not included on his list, he shall inform in writing the doctor on whose list the patient is included of the outcome of the procedure.

(5) Nothing in this regulation shall prevent any doctor personally performing, in the course of providing general medical services (otherwise than by way of minor surgery services) to a patient, a procedure described in Schedule 6.

PART VI

PAYMENTS TO DOCTORS

Payments

34.—(1) In respect of each financial year the FHSA shall make payments to doctors with whom arrangements for the provision of general medical services exist in its locality, in accordance with such rates and subject to such conditions as the Secretary of State may determine and publish in a Statement, after consultation with such organisations as he may recognise as representing doctors with whom arrangements for the provision of general medical services exist.

(2) The determination under paragraph (1) shall make provision for the following matters—

- (a) basic practice allowance, and additional allowances for designated areas, seniority and employment of assistants;
- (b) standard capitation fees and capitation fees for elderly patients;
- (c) fees for items of service, maternity medical services and temporary residents;
- (d) fees and allowances for the supply of drugs and appliances and for rural practice;
- (e) allowances for training doctors and for study leave;
- (f) allowances for initial practice or inducement to practise;
- (g) allowances for practice expenses and, in particular, allowances for practice staff including any who are spouses or other relatives and who provide qualifying services in accordance with the determination;
- (h) allowances for improvement of premises;
- (i) group practice loans;
- (j) fees for contraceptive services;
- (k) payments in relation to the making of arrangements for, and payments for, the temporary provision of general medical services;
- (l) capitation fees in respect of patients who participate in a consultation pursuant to paragraph 14 of the terms of service;
- (m) capitation fees in respect of patients to whom child health surveillance services are provided;
- (n) capitation fees in respect of patients living in deprived areas;
- (o) fees for minor surgery sessions undertaken;
- (p) fees in respect of the provision of health promotion clinics approved by the FHSA;
- (q) target payments in respect of immunisations provided;
- (r) target payments in respect of cervical cytology;
- (s) allowances for the employment of locums by a doctor during maternity leave, sickness or study leave;
- (t) allowances for undergoing approved post-graduate education;
- (u) allowances for the employment of doctors by isolated single-handed doctors;
- (v) allowances in respect of providing placements in the practice for undergraduate medical students;
- (w) transitional payments in consequence of changes to doctors' terms of service.

(3) The determination under paragraph (1) may be amended from time to time by the Secretary of State after consultation with the organisations referred to in that paragraph and any amendments shall also be published in a Statement.

(4) Where a doctor is in the medical list of more than one FHSA, any payment due to the doctor may, where the Statement so provides, be made on behalf of all FSAs concerned.

Claims and overpayments

35.—(1) Any claim for fees, allowances or other remuneration by doctors shall be made in accordance with the provisions of the Statement under regulation 34.

(2) Where the FHSA considers that a payment has been made in circumstances when it was not due, the FHSA, except to the extent that the Secretary of State on the application of the FHSA directs otherwise, shall draw the overpayment to the attention of the doctor and—

- (a) where the overpayment is admitted by him; or
- (b) where the overpayment is not so admitted but, the matter having been referred under regulation 7(1) of the National Health Service (Service Committees and Tribunal) Regulations 1992(19) for investigation, the FHSA, or the Secretary of State on appeal under regulation 10(1)(c) of those Regulations, decides that there has been an overpayment,

the amount overpaid shall be recoverable either by deduction from the doctor's remuneration or in some other manner.

(3) Recovery of an overpayment under this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

PART VII

MISCELLANEOUS

Determination of question whether a substance is a drug, and recovery of cost

36.—(1) Any question whether a substance ordered by a doctor for provision by a chemist was a drug the provision of which formed part of pharmaceutical services provided under the Act shall be determined under the provisions of this regulation.

(2) Where it appears to the FHSA that a question arises under sub-paragraph (1), the FHSA shall—

- (a) notify the doctor who supplied or ordered the substance of the nature of the question arising; and
- (b) invite him to state in writing, within 30 days from the date on which the notice was sent to him, whether he wishes the question to be referred to the Local Medical Committee for its opinion.

(3) The FHSA—

- (a) shall, where the doctor states that he wishes the question to be referred to the Local Medical Committee for its opinion, refer the question accordingly;
- (b) in any other case, may refer the question to the Local Medical Committee for its opinion; and
- (c) may, in any event, seek such medical or pharmaceutical advice as it thinks fit, otherwise than from the Local Medical Committee.

(4) Where the question is referred to the Local Medical Committee under the provisions of paragraph (3), that Committee shall—

- (a) furnish the doctor concerned with a statement indicating the nature of the question referred to it by the FHSA; and
- (b) give the doctor concerned a reasonable opportunity to—
 - (i) submit to it any statement in writing, and
 - (ii) appear before it and be heard by it, in connection with the question so referred.

(5) The Local Medical Committee shall—

- (a) in forming its opinion under this regulation, have regard to any information or evidence provided by the FHSA in connection with the question referred to it; and

- (b) inform the doctor and the FHSA, in writing, of its opinion, its findings of fact and its reasons for its opinion.
- (6) The FHSA shall—
 - (a) send notice of the question, in writing, to—
 - (i) the doctor who ordered the substance,
 - (ii) the person to whom the order was given, and
 - (iii) any other person who, in the opinion of the FHSA, has an interest in the determination of the question; and
 - (b) invite any such person to submit to the FHSA his comments in writing on that question within 30 days or within such further period as the FHSA may for reasonable cause allow.
- (7) The FHSA shall, in determining the question, have regard to any opinion obtained by it under any of the provisions of paragraphs (3) to (5), and shall—
 - (a) send notice of its decision in writing to—
 - (i) the doctor concerned,
 - (ii) the Local Medical Committee, and
 - (iii) any person who submitted comments under paragraph (6); and
 - (b) where it determines that the substance in question is not a drug the provision of which formed part of pharmaceutical services, inform the doctor of his right of appeal under paragraph (8).
- (8) Where the FHSA has determined that the substance in question is not a drug the provision of which formed part of pharmaceutical services, the doctor may appeal to the Secretary of State by giving notice of appeal, within 30 days from the date on which the notice of the decision was sent to him or within such longer period as the Secretary of State may, for reasonable cause, allow.
- (9) Any notice of appeal given under this regulation shall be given in writing and shall contain a concise statement of the grounds of appeal.
- (10) The Secretary of State shall send a copy of the notice of appeal to the FHSA whose determination is appealed against and to any person who submitted comments to the FHSA under paragraph (6).
- (11) Any person to whom a copy of the notice of appeal is sent pursuant to paragraph (10) may, within 30 days from the date on which the notice was sent to him, make representations in writing to the Secretary of State on the appeal.
- (12) The Secretary of State shall require an oral hearing of the appeal before he determines it.
- (13) An oral hearing shall take place at such time and place as the Secretary of State may direct, and notice of the hearing shall be sent, not less than 14 days before the date fixed for the hearing, to the appellant and to any person who received a copy of the notice of appeal under paragraph (10).
- (14) The appellant and any person mentioned in paragraph (10) may attend and be heard in person or by Counsel, solicitor or other representative and the FHSA may be represented at the hearing by any duly authorised officer or member, or by Counsel or solicitor.
- (15) The Secretary of State shall determine the procedure at the oral hearing as he sees fit and, on determining the appeal, shall either—
 - (a) allow the appeal; or
 - (b) confirm the decision of the FHSA.
- (16) The Secretary of State shall, as soon as practicable, send to the appellant and to any person mentioned in paragraph (10) notice in writing of his decision on the appeal and shall include in the notice a statement of his reasons for the decision and of his findings of fact.

(17) Where an FHSA or, on appeal, the Secretary of State has determined that a substance was not a drug the provision of which formed part of pharmaceutical services provided under the Act, the FHSA shall recover from the doctor who supplied or ordered the substance, by deduction from his remuneration or otherwise, an amount calculated in accordance with paragraph (19).

(18) Any amount determined as being recoverable under this regulation shall be a debt owing by the doctor to the FHSA by which it is recoverable.

(19) For the purposes of paragraph (18), the amount to be recovered in respect of the supply of any substance shall be the cost of that substance to the FHSA, including the dispensing fee payable in respect of the supply of the preparation, and where the substance was an ingredient in a preparation of which other ingredients were drugs, the amount to be recovered shall be the cost of that substance to the FHSA together with one-half of the amount of the dispensing fee payable in respect of the supply of the preparation.

Publication of particulars

37.—(1) The FHSA shall publish the local directory and the medical list and shall make available for inspection at its office copies of—

- (a) the medical list;
- (b) the terms of service;
- (c) the Statement published under regulation 34;
- (d) the local directory; and
- (e) a compendium of practice leaflets provided to it by doctors whose names are included in its medical list,

and shall keep them up to date.

(2) The FHSA shall make the documents mentioned in paragraph (1) available for inspection at such other places in its locality as appear to it convenient for informing all persons interested or may publish at such places a notice of the places and times at which copies of such documents may be seen.

(3) The FHSA shall—

- (a) send a copy of the medical list to the Secretary of State, the Medical Practices Committee, the Local Medical Committee, and the Local Pharmaceutical Committee and to any person providing general medical or pharmaceutical services in its locality; and
- (b) at intervals of not more than three months notify them of any alterations.

(4) Notwithstanding paragraph (3), if the FHSA considers that only parts of the medical list, or that only some of the alterations, are likely to concern any such persons or bodies, it may send to those persons or bodies a copy of only those parts or alterations.

Appointment of medical adviser

38. An FHSA shall appoint a doctor to assist it in the exercise of its functions pursuant to paragraph 49 of the terms of service for doctors (inquiries about prescriptions and referrals).

Guidance to doctors

39.—(1) An FHSA may issue guidance to doctors whose names are included in its medical list to assist them in assessing in accordance with paragraph 28 of the terms of service, the qualifications, experience and competence of any employee, or prospective employee.

(2) Any guidance issued for the purposes of paragraph (1) in connection with the employment of members of any profession or other occupational group shall have regard to any statement as to

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minimum professional standards of conduct published by any body responsible for the regulation of that profession or occupational group.

10th March 1992

William Waldegrave
Signed by One of Her Majesty's Principal
Secretaries of State