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STATUTORY INSTRUMENTS

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**1995 No. 416**

**The National Health Service (General Medical Services) (Scotland) Regulations 1995**

**PART III**

scottish medical practices committee

**Appointment of members and tenure and vacation of office**

**13.** The following provisions shall apply to the members of the Medical Practices Committee (in this Part of these Regulations referred to as “the Committee”):—

- (a) the chairman and other members in office at the coming into force of these Regulations shall continue to hold office for the periods for which they were respectively appointed;
- (b) subject as hereinafter provided, members shall be appointed for a period of three years expiring on 31st day of March in any year;
- (c) a member may be reappointed to the Committee on the expiration of his term of office;
- (d) a member may resign from the Committee by giving notice in writing to the Secretary of State and a member who is appointed on the basis that he is actively engaged in medical practice shall be deemed to have resigned if he ceases to be so engaged;
- (e) a person appointed to fill a casual vacancy shall hold office for the remainder of the period for which his predecessor in that office was appointed.

**Determination of applications**

**14.—(1)** The Committee shall determine applications under section 20 of the Act in accordance with the following paragraphs of this regulation.

(2) When determining an application to fill a vacancy which is made under regulation 11 the Committee shall—

- (a) where the application is the only one for the vacancy or is the one which has been selected by the Board for consideration by the Committee, grant the application;
- (b) where the application is not the one which has been so selected for such consideration, refuse the application.

(3) Subject to paragraph (4) any decision of the Committee involving the refusal of an application or the granting of an application subject to conditions shall be the decision of the majority of members present and voting at a meeting of the Committee.

(4) Three members shall form a quorum and in the case of equality of votes the Chairman shall have a second or casting vote.

### **Conditions under which general medical services are to be provided**

15. Where, for the purposes of section 23(4)(a) of the Act(1), the Committee specifies the provision of general medical services for which an applicant is entitled to be remunerated, it shall do so by reference to the condition 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 24 of the terms of service, available to provide such services; or
- (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; or
- (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; or
- (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;
  - (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 be engaged in the provision of 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 the Committee shall determine having regard to the range of services to be provided by the doctor and the category of patients to whom the services are to be provided.

### **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 by the Committee—
  - (i) excluding the provision by that doctor of general medical services in a specified part or specified parts of the area of the Board;
  - (ii) under regulation 15 in relation to the extent to which that doctor may carry out remunerated work;
- (b) imposed by the Secretary of State in connection with the determination by him of any appeal from a decision of the Committee.

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

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

(4) The Board shall send to the doctor a copy of the observations it has made on his application, and the doctor may, within 14 days of receiving the copy of the observations, send to the Committee his representations in writing in response to the observations.

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(1) Section 23(4)(a) was inserted by the 1990 Act, section 39(3).

(5) The provisions of regulation 14(3) and (4) as respects the constitution and quorum of the Committee shall apply in the case of a decision by the Committee in relation to an application under this regulation as they apply to a decision in relation to an application under that regulation.

(6) The 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 Committee—

- (a) shall take account of the observations made by the Board and of any observations made by the doctor in response;
- (b) in deciding the application, may—
  - (i) refuse to vary any condition in respect of which the application was made; or
  - (ii) vary any such condition by imposing in relation to the doctor such other condition mentioned in regulation 15(a) to (e) as has been requested in the application; and
- (c) shall give notice of its decision in writing to the doctor and to the Board.

(8) Where the 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 a statement of the reasons for its decision; and
- (b) advise the doctor of his right of appeal under paragraph (9).

(9) A doctor may appeal to the Secretary of State on a point of law against the refusal of the Committee to vary a condition under this regulation, and—

- (a) regulation 17 shall apply to the making and determination of any such appeal;
- (b) where the Secretary of State allows such an appeal, he shall remit the application to the Committee for reconsideration.

### **Appeal to the Secretary of State**

**17.—**(1) Any appeal to the Secretary of State on a point of law—

- (a) pursuant to section 23(2A)(c) of the Act by a doctor who has not been selected by a Board as mentioned in paragraph (c) of that subsection; or
- (b) pursuant to section 23(5) of the Act<sup>(2)</sup> by a doctor whose application under section 20 of the Act has been refused by the Committee or has been granted by the Committee subject to conditions; or
- (c) pursuant to regulation 16 (variation of conditions in connection with inclusion in a medical list),

shall be made and determined in accordance with the following paragraphs of this regulation.

(2) A doctor may appeal by sending to the Secretary of State a notice of appeal within 21 days, or within such longer period as the Secretary of State may for reasonable cause allow, of the date on which notice of the decision of the Board or, as the case may be, the Committee is given to him.

(3) A notice of appeal shall contain a concise statement of the point or points of law in respect of which the doctor contends that the decision of the Board or, as the case may be, the 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 a hearing, he may determine the appeal summarily without a hearing and shall send his decision to the appellant, and the Board, or as the case may be, the Committee.

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(2) Section 23(5) was amended by S.I. 1981/432, by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 10 and by the 1990 Act, section 39(4).

(5) If the Secretary of State is of the opinion that a hearing is required, he shall appoint—

- (a) a person who is an advocate or a solicitor; and
- (b) where the Secretary of State sees fit, one or more other persons,

to hear the appeal.

(6) A hearing shall take place at such time and place as the Secretary of State may direct and notice of the hearing shall be sent by post to the appellant, the Board, or as the case may be, the Committee and any doctor whose application for appointment to the vacancy to which the application relates was granted, not less than 14 days before the date fixed for the hearing.

(7) 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. The Board, or as the case may be, the Committee may be represented at the hearing by any duly authorised member or official or by counsel or solicitor.

(8) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the person or persons hearing the appeal may determine.

(9) The person or persons hearing the appeal shall report thereon to the Secretary of State, stating the relevant facts and his or their conclusions, and the Secretary of State after taking such report into consideration shall give his decision and send it to the appellant, the Committee, the Board and such doctors as have under the foregoing provisions of this regulation been served with notice of the hearing.

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

- (a) he shall give to the Board or, as the case may be, the 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 Board or, as the case may be, the Committee shall redetermine the application and in so doing shall comply with any directions given by the Secretary of State under subparagraph (a) of this paragraph.

**Certificate that transaction does not involve sale of goodwill**

**18.** A certificate issued by the Committee under Schedule 9, paragraph 1(3) to the Act shall be in the form set out in Schedule 8.