
STATUTORY INSTRUMENTS

1995 No. 416

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

PART IV

general medical services other than child health surveillance services,
contraceptive services, maternity medical services and minor surgery services

Selection of doctor

19.—(1) Application by a person to a doctor for acceptance and inclusion in his list shall be made in writing either on the person's medical card or on a form of application.

(2) Application by a person to a doctor for acceptance as a temporary resident shall be made in writing on a form supplied by the Board.

Assignment of persons to doctors

20.—(1) If a person applies to the Board for assignment to a doctor (irrespective of whether or not he is at the date of application included in the list of patients of another doctor), or is deemed to have so applied in accordance with the provisions of paragraph 4(4) of the terms of service, the Board shall assign him to such doctor as it thinks fit (including the doctor in whose list of patients he is presently included), having regard to the distance between the person's place of residence and the premises at which the doctors in the locality carry on practice and to such other circumstances as appear to the Board to be relevant, and shall forthwith give notice in writing of any decision hereunder to—

- (a) the person;
- (b) any doctor to whom the person is assigned by virtue of this regulation; and
- (c) to any other doctor who may be concerned.

(2) A doctor may apply to the Board to be exempted from having assigned to him any person or class of persons and the Board may grant or refuse any application under this paragraph.

(3) Where an application under paragraph (2) relates only to a specified person who has previously been removed from the list of the doctor, the Board shall take into account the circumstances of that removal in deciding whether to grant or refuse the application.

(4) Any doctor of a description specified in paragraph 5 of the terms of service may apply to the Board to be granted relief from liability from emergency calls as provided in that paragraph and the Board may grant or refuse any application hereunder.

(5) Forthwith after it takes any decision in respect of any application under paragraph (2) or (4) the Board shall give notice in writing to the doctor of its decision with its reasons therefor.

(6) A doctor in respect of whom a Board has made a decision ("the initial decision") under paragraph (1), (2) or (4) may, within 7 days of receiving notice of it, make representations in writing to that Board against that decision.

(7) Where a doctor makes representations under paragraph (6) the Board shall give to that doctor the opportunity to address it in the course of an oral hearing in support of those representations.

(8) Any oral hearing under paragraph (7) shall be held within 14 days of receipt by the Board of the representations.

(9) Where representations are made under paragraph (6) the Board shall, subject to paragraph (11), review its initial decision and shall either confirm or revise it.

(10) A doctor who has made representations under paragraph (6) shall remain responsible for the treatment of the person assigned to him pending notification under paragraph (12) of the confirmation or revision of the assignment by the Board.

(11) No person who participated in the making of an initial decision under this regulation shall participate in a review of that decision under paragraph (10).

(12) The Board shall, within 7 days of making a determination under paragraph (9), give notice to the doctor thereof in writing with its reasons therefor, and, where an initial decision made under paragraph (1) has been revised, shall notify also the patient and the other doctor to whom the patient is assigned under the revised determination.

Limitation of number of persons in doctors' lists

21.—(1) Subject to paragraph (2), the maximum number of persons a doctor may have on his list in all areas in which he provides general medical services (in addition to any persons for whom he has accepted responsibility following the granting by the Board of relief to another doctor under paragraph 18 of the terms of service) shall be—

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

(2) Where a doctor employs, or the doctors carrying on practice in partnership employ, permanently one or more assistants, an addition of not more than 2,000 persons to the list in respect of each assistant, may, with the consent of the Board (or, on appeal, of the Medical Practices Committee), be allowed in the light of the circumstances of the particular case, any such addition in the case of a partnership being disregarded in calculating the average number of persons on the list of the partners for the purposes of sub-paragraph (1)(b).

(3) For the purposes of paragraph (2)—

- (a) where an assistant is included in a medical list the additional number which would otherwise be allowable to his principal in respect of him shall be reduced by the number of persons on his list;
- (b) any additional number to the list allowed in respect of the employment of an assistant shall not apply during any period when no assistant is employed (but a period comprising a short interval between the departure of an assistant and the arrival of his successor may be ignored).

(4) For the purposes of this regulation a doctor shall be deemed to be carrying on practice otherwise than in partnership unless the Board or, on appeal, the Medical Practices Committee is satisfied that he—

- (a) 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, he is entitled to a share of the other profits which, when added to the share of the job-sharing doctor with whose hours his hours are being aggregated for the purpose of regulation 15(d), is not less than one third of the share of the partner with the greatest share.

(5) A doctor who is dissatisfied with the decision of the Board respecting the extent to which the number of persons on his list may be increased by reason of the employment by him of an assistant may appeal against that decision to the Medical Practices Committee by sending to that Committee notice of appeal within 30 days or such longer period as that Committee may allow from the date on which the Board intimates its decision to him, and that Committee, after such inquiry as it may think necessary, shall determine the appeal.

(6) In any appeal under paragraph (5) the Medical Practices Committee shall admit to any hearing of such appeal such persons not exceeding two in number as may be appointed for the purpose by an organisation recognised by the Secretary of State as representative of the medical profession, and shall allow such persons to address the Committee before deciding on the appeal.

(7) Where the Board finds the number of patients on the doctor's list to be in excess of the maximum number allowed in accordance with this regulation it shall notify the doctor who shall, within 60 days from the date on which the excess is notified to him, take steps to reduce his list to the maximum number allowed by—

- (a) entering into partnership; or
- (b) employing an assistant; or
- (c) giving notice to the Board of the names of the necessary number of patients whom he wishes to have removed from his list under paragraph 9 of the terms of service.

(8) If at the end of the said period of 60 days the steps taken by the doctor have not resulted in the number of persons on his list being within the maximum number allowed, the Board shall remove from his list the necessary number of names.

(9) If a doctor gives notice under paragraph (7)(c) or the Board requires to take action under paragraph (8), the Board shall inform each person to be removed that he should apply to another doctor for acceptance.

(10) Where a doctor whose name is included in the medical list in respect of more than one address and who wishes to cease to practise at one such address and who has obtained the consent of the Board, or on appeal, of the Secretary of State, to this change, gives notice to the Board 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 provisions of regulation 22(3), (4) and (6) shall apply, with the necessary modifications, and the Board shall take action accordingly.

(11) In carrying out its functions under this regulation the Board shall consult as necessary with the Board of any adjoining area whose medical list includes the doctor or doctors concerned and if Boards fail to agree on any matter the issue shall be determined by the Secretary of State.

(12) The Board may, in special circumstances, subject to the consent of the Secretary of State and to any conditions he may impose, permit a doctor or partnership to have on his list or their lists such greater number than the maximum number otherwise allowed under this regulation.

(13) Nothing in this regulation shall prevent a doctor from accepting persons who apply to him as temporary residents or exempt him from any liability under paragraph 5 of his terms of service.

Change of doctor

22.—(1) Subject to the requirements of paragraph (2), a person may apply in accordance with regulation 19(1) to any doctor, other than the doctor in whose list he is included, who provides general medical services, for acceptance in that other doctor's list of patients.

(2) A person who has applied, pursuant to paragraph (1), and been refused acceptance by any doctor, may apply to the Board in whose area he is resident to be allocated to any doctor whose name is included in the Board's medical list.

(3) Where a doctor whose name is included in the medical list dies or has his name withdrawn or removed from that list, the Board shall as soon as is practicable make known the fact by individual notices sent to persons, other than to those women who had been accepted by him for the provision of contraceptive services only, on the list of the doctor.

(4) Where one or more doctors have been selected under the provisions of regulation 11 or 12 to succeed to a practice, and the names of any such practitioners are included in the medical list, the Board shall send to the persons on the list of the doctor who last carried on that practice other than to those women who had been accepted by him for the provision of contraceptive services only, a statement of the name and address of the successor in whose list it is considered that the persons in question or any section of them may wish to be included together with an intimation that such a successor is willing to accept the persons concerned for treatment and that they will be deemed to be included in his list as from the date given in the notice unless within 14 days of the said date they have applied to and have been accepted by other doctors, or have given notice in writing to the Board of their desire not to be so included.

(5) Where a woman who has been deemed to be included in the list of a successor in accordance with paragraph (4) has also been accepted by the doctor who last carried on the practice for the provision to her of contraceptive services under regulation 30, and that successor is willing to accept the woman concerned for the provision to her of contraceptive services to at least the same extent as the doctor who last carried on the practice, then she will be deemed from the date given in the notice sent to her under paragraph (4) to be accepted by that successor for the provision of contraceptive services to the like extent to which, and for the remainder of the period for which, she had previously been accepted.

(6) Where no successor is to be appointed to a practice, the Board shall give to the persons on the list of the doctor who last carried on that practice, other than to those women who had been accepted by him for the provision of contraceptive services only, notice of their right to apply to another doctor on the medical list for acceptance.

(7) The terms of notices given under this regulation shall be determined by the Board after consultation with the Area Medical Committee.

(8) A doctor who has performed a period of relevant service in an emergency recognised by the Secretary of State for the purpose of these regulations and has returned to his practice at the end of such service, shall within 30 days of his return notify the Board in writing that he has personally resumed practice. Where the Board has been so notified, it shall within 30 days send a notice to every person whose name was on the doctor's list at the date of the beginning of such service who is still residing at the same address at which he was residing at such date and who has transferred to the list of another doctor. The Board's notice shall state that the former doctor has resumed practice and that the person's name will be restored to his list unless within 14 days after the date of the notice that person gives notice in writing to the Board that he wishes his name to remain on the list of his present doctor. After the said period of 14 days has elapsed, the Board shall inform the doctors concerned of the names of the persons who are restored to the list of the doctor who has resumed practice and shall also inform the other doctor only of the names of the persons who have elected to remain on his list.

(9) Nothing in this regulation shall require the Board to give any notice of or concerning the making, variation or termination of arrangements under regulation 24.

23. Where a doctor has given notice to the Board in accordance with paragraph 9 of his terms of service that a person is to be removed from his list, the Board shall forthwith inform that person that he should apply to another doctor for acceptance, or apply to the Board for assignment to a doctor.

Temporary provision of general medical services

24.—(1) The provisions of this regulation shall apply in relation to the making of arrangements for the temporary provision of general medical services.

(2) Where a doctor dies, retires or otherwise ceases to be entitled to be included in the medical list or where his registration is suspended in any of the circumstances specified in section 19(7) of the Act⁽¹⁾, the Board, after consultation with the Area Medical Committee, may—

- (a) make and as necessary or desirable vary from time to time arrangements for the temporary provision of general medical services for the patients for whose treatment that doctor was or might have become responsible which arrangements may consist of or include the appointment under this paragraph of one or more doctors to undertake the provision of such services;
- (b) where a doctor included in the medical list by virtue of regulation 4(1)(a) ceases because of his death to be entitled to be so included, and within 7 days of the date of death any person applies to the Board 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 provision of general medical services for the patients for whose treatment that doctor was or might have become responsible.

(3) The Board 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 any person who applied to them for the appointment of that doctor.

(4) Arrangements under paragraph (2) shall subsist for such period as the Board thinks fit, but such period shall not extend beyond one year unless the Board is at the expiry of that year satisfied that the continuation of the said arrangements with or without variations is necessary to enable general medical services to continue to be provided; and in any event the said arrangements shall not subsist beyond the date on which the relevant practice vacancy is permanently filled or the suspension referred to in paragraph (2) ceases to have effect; but the Board shall so far as possible give prior written notice of the termination of the said arrangements to the doctor with whom those arrangements were made.

(5) Subject to paragraph (4), where arrangements under paragraph (2) with or without variations are to continue for a period beyond one year, the Board shall at the expiry of that year notify the Secretary of State in writing of such continuation, and subsequently of the termination of such arrangements as soon as is practicable.

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

(7) Where the Board is satisfied—

- (a) that because of his physical or mental condition, or
- (b) that because of continued absence

a doctor's obligations under the terms of service are not being carried out adequately, it may after consultation with the Area Medical Committee and with the consent of the Secretary of State make arrangements for the temporary provision of general medical services for the patients for whose

(1) Subsection (7) of section 19 was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 2 and was amended by the Medical Act 1983 (c. 54), Schedule 5, paragraph 17(a).

treatment that doctor was or might have become responsible, which arrangements may consist of or include the appointment under this paragraph of one or more doctors to undertake the provision of such services.

(8) No doctor may be appointed under paragraph (2) or (7) unless he is suitably experienced (other than by virtue of being a restricted services principal) within the meaning of section 21 of the Act.

(9) Subject to paragraph (12), arrangements under paragraph (7) shall subsist for such period as the Board thinks fit, but not, in a case to which paragraph (7)(a) applies, beyond the date on which the Board is satisfied, after consulting the Area Medical Committee, that the doctor is fit to resume his practice.

(10) The Board may, before varying or terminating any arrangements made under paragraph (7) and after consulting the Area Medical Committee, require the doctor to be medically examined.

(11) A doctor required under this regulation to be medically examined shall submit himself for medical examination by a doctor or doctors appointed, after consultation with the Area Medical Committee, by the Board, and such examining doctor or doctors shall thereafter report in writing to the Board as to the doctor's fitness to carry out his obligations under the terms of service.

(12) Where the Board proposes that arrangements under paragraph (7) shall continue for longer than one year or such shorter period as the Secretary of State may in any particular case specify, or beyond a second or subsequent year or any subsequent specified period in the particular case, it shall so notify the Secretary of State in writing not less than 30 days before the expiry of that year or such specified period, or as soon thereafter as is practicable, and shall in each case obtain the consent of the Secretary of State to the continuation of the arrangements.

(13) Where arrangements under paragraph (7) expire or are terminated by the Board it shall give reasonable prior written notice to the doctor with whom those arrangements were made, and shall as soon as practicable notify the Secretary of State in writing that such termination has taken place.

(14) The Board shall, where practicable, notify in writing any doctor with respect to whose patients arrangements are made under this regulation of such arrangements and of their variation or termination.

(15) Each doctor appointed under this regulation shall throughout his appointment be bound by the terms of service which were applicable to the doctor, the treatment of all of whose patients he is appointed with or without other doctors to undertake; but such appointment shall not oblige the doctor so appointed to provide child health surveillance services, contraceptive services, maternity medical services or minor surgery services which he has not undertaken to provide.

(16) Where the doctor for the treatment of whose patients arrangements are made under this regulation has accepted patients for the provision of maternity medical services and the doctor or doctors appointed under this regulation have not undertaken to provide such services, the Board shall so inform the patients accepted for these services and inform them of any arrangements to enable them to continue to receive such services.

(17) Any patient of a doctor in respect of whose patients the Board has made arrangements for the temporary provision of general medical services under this regulation shall be deemed to remain on the list of that doctor for the duration of such arrangements unless he makes application for acceptance by another doctor or is otherwise removed from the list in accordance with these Regulations.

(18) Any application for acceptance and inclusion on a doctor's list received by a doctor appointed under this regulation in the course of such appointment shall be deemed to be an application for acceptance and inclusion in the list of the doctor in respect of whose patients the appointment was made.

(19) The Board may deduct from the remuneration of a doctor in respect of whose patients arrangements are made under paragraph (7) or consequent upon the suspension of whose registration arrangements are made under paragraph (2)(a) the cost, in part or in whole, of any such arrangements,

and in the case of a doctor performing relevant services in an emergency recognised by the Secretary of State for the purpose of these Regulations, the Board shall deduct from his remuneration the cost of arrangements under this regulation.

(20) In its application to the temporary provision of general medical services, sub-section (3) of section 19 of the Act shall have effect as if the words “otherwise than temporarily” were inserted after the words “general medical services” in that sub-section.

(21) In its application to a doctor appointed under this regulation, section 20(1A) of the Act(2) shall have effect as if—

- (a) the words “shall be entitled to have his application for the inclusion of his name in the list kept by any Health Board referred to the Medical Practices Committee” were omitted and the words “shall be appointed to provide general medical services temporarily” were inserted in their place; and
- (b) the words from “and where a Board” to the end were omitted.

(22) Sections 20(1) and 21 of the Act shall not apply in respect of the temporary provision of general medical services by a doctor appointed under this regulation.

Removal of person from doctor’s list

25.—(1) A person whose name is included in the list of a doctor and who no longer wishes to avail himself of general medical services may at any time give notice to the Board that he wishes his name to be removed from that list, and at the expiration of 14 days from the date of the receipt of the notice, the Board shall remove the name and inform the person and the doctor.

(2) Subject to the provisions of paragraphs (3) and (5), where, in regard to a person whose name is in the list of a doctor providing general medical services in the area of the Board, the Board after due enquiry including consultation in writing with the doctor is satisfied, either—

- (a) that the person no longer resides in that part of the area of the Board where the doctor has undertaken to provide such services, or
- (b) that the whereabouts of the person are no longer known to the Board,

and that the doctor in whose list the name of the person is included is no longer responsible for providing that person with general medical services, the Board shall remove the name of that person from the doctor’s list.

(3) Without prejudice to paragraph (2), where the Board consults a doctor in writing about the possible removal of the name of a person from his list, it shall remove that name from the list six months after that consultation unless the doctor satisfies the Board that he is still responsible for providing general medical services for that person.

(4) On removing the name of a person from the list of a doctor the Board shall notify the doctor and the person concerned at his last known address.

(5) The Board shall, on receiving from the doctor (in accordance with the provisions of paragraph 33 of the terms of service) particulars of persons who are pupils or staff or residents of a school or residential institution where he provides general medical services, forthwith remove the names of all persons appearing in his list as pupils or staff or residents of such school or institution which are not shown in the said particulars.

(6) Where the Board has made a request to a doctor for particulars under the said paragraph 33 and has not received them in accordance with those provisions, it may remove the names of persons at such schools or institutions appearing on his list.

(2) Section 20(1A) was inserted by [S.I. 1981/432](#).

Temporary residents

26.—(1) A person who is residing temporarily in a district and whose name is not on the list of a doctor providing general medical services in that district may, if he requires treatment, apply to any doctor to be accepted by him as a temporary resident and if he is so accepted his name shall not be removed from the list of any doctor in which it is already included.

(2) For the purpose of this regulation a person shall be regarded as temporarily resident in a district if when he arrives in that district he intends to stay there for more than 24 hours but not more than 90 days.

(3) If the stay of a person accepted under this regulation as a temporary resident in a district exceeds 90 days, he shall cease to be regarded as a temporary resident.

Doctors' lists

27.—(1) A Board shall prepare and keep revised up to date in respect of each doctor on its medical list, a list of the patients in its area for whom each doctor is for the time being responsible and shall from time to time furnish the doctor with information concerning persons added to or deleted from the list.

(2) Subject to the provisions of regulation 22(4), the name of 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 Board.

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

- (a) dies, or
- (b) is absent from the United Kingdom for a period of 90 days, or
- (c) leaves the United Kingdom with the intention of being away for a period in excess of 90 days, or
- (d) enlists in Her Majesty's Forces, or
- (e) is serving a prison sentence or sentences totalling in the aggregate more than two years,

his name shall be deleted from the doctor's list as from the date on which the Board first received notification of the death, absence, departure, enlistment or imprisonment.

(4) Any deletion from a doctor's list caused by the transfer of a person to the list of another doctor, otherwise than in accordance with a notice given under regulation 22(3) and (4), shall take effect from the date on which the Board receives notification of the acceptance of the person by the last-mentioned doctor or, subject to the consent of the Board, on such date, not being earlier than the date of such consent as may be agreed between the doctors.

(5) Where a doctor has requested the Board to remove a person from his list in accordance with paragraph 9(1) of the terms of service, the removal shall take effect from the date mentioned in that paragraph.

(6) Where a doctor has notified the Board that he wishes to have a person removed from his list with immediate effect in accordance with paragraph 9(2) of the terms of service—

- (a) the removal shall take effect at the time mentioned in sub-paragraph (4) of that paragraph, and
- (b) on receipt of the notification the Board shall—
 - (i) in writing, acknowledge it and also give notice of the removal to the person concerned, and
 - (ii) take all reasonable steps to assign the person to another doctor before the end of the next working day, or as soon as possible thereafter, and regulation 20 shall apply

to such an assignment as if the person had applied for an assignment in accordance with that regulation.

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