
STATUTORY INSTRUMENTS

1995 No. 80

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

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

<i>Made</i>	- - - -	<i>16th January 1995</i>
<i>Laid before Parliament</i>		<i>16th January 1995</i>
<i>Coming into force</i>	- -	<i>6th February 1995</i>

The Secretary of State for Health, in exercise of powers conferred on her by sections 15(1), 29, 33(2A)(a) and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services) Amendment Regulations 1995 and shall come into force on 6th February 1995.

(2) In these Regulations, “the principal Regulations” means the National Health Service (General Medical Services) Regulations 1992(2).

Readvertisement for vacancies by FHSAs

2.—(1) In regulation 12A(4) of the principal Regulations (which defines “closing date” for the purposes of vacancy notices)(3), for “paragraph (2A)” there is substituted “paragraphs (2A) and (2AA)”.

(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48), section 5(2) and by section 12(1) of the 1990 Act. Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); and by S.I. 1985/39, article 7(3). Section 30(1) was amended by the 1980 Act, section 1, Schedule 1, paragraph 43(a) and Schedule 7; by S.I. 1981/432, article 3(1)(a); and by S.I. 1985/39, article 7(4). Section 33(2A) was inserted by the 1990 Act, section 23(2). Section 126(4) was amended by the 1990 Act, section 65(2).

(2) S.I. 1992/635; relevant amending instruments are S.I. 1993/540 and 1994/633.

(3) Regulation 12A was inserted by S.I. 1994/633.

(2) In regulation 13 of the principal Regulations (selection of applicants by FHSA), the following paragraphs are substituted for paragraph (2A)(4)—

“(2A) Subject to paragraph (2AA), the FHSA shall not begin making its selection for the purposes of paragraph (2) until—

- (a) after it has resolved to give no more notices; and
- (b) the closing date included in the last notice given before the FHSA’s resolution to give no more notices has passed.

(2AA) Where—

- (a) the FHSA has received 20 or more applications in respect of the vacancy (whether in response to the first notice or in response to the first notice and one or more further notices combined); or
- (b) it has given 3 further notices of the vacancy, and the closing date included in the last of them has passed,

it may begin making its selection for the purposes of paragraph (2) without resolving to give no more notices.”

Doctors' availability to patients

3.—(1) Schedule 2 to the principal Regulations (terms of service for doctors) is amended in accordance with paragraphs (2) to (5).

(2) For paragraph 13 (provision of services to patients), there is substituted—

“Provision of services to patients

13.—(1) In this paragraph, the services referred to in paragraph 12 are called the “relevant services”.

(2) Subject to the following provisions of this paragraph, a doctor shall render the relevant services during the hours for which he is normally available pursuant to paragraph 29 (in this paragraph referred to as “normal hours”)—

- (a) at his practice premises; or
- (b) in the case of a patient whose condition is such that in the doctor’s reasonable opinion it would be inappropriate for the patient to attend at the practice premises, at whichever is appropriate of the places set out in sub-paragraph (5).

(3) Outside normal hours the doctor shall consider, in the light of the patient’s medical condition, whether a consultation is needed, and if so, when.

(4) If in the doctor’s reasonable opinion a consultation is needed before the next time at which the patient could be seen during normal hours, he shall render the relevant services—

- (a) at his practice premises;
- (b) at such other place as the FHSA has agreed, pursuant to paragraph 29A, and he has informed the patient, pursuant to paragraph 29A(5), is a place where he will treat patients outside normal hours; or
- (c) in the case of a patient whose condition is such that in the doctor’s reasonable opinion it would be inappropriate for the patient to attend either at the practice premises or at such other place, at whichever is appropriate of the places set out in sub-paragraph (5).

(5) The places referred to in sub-paragraphs (2)(b) and (4)(c) are—

(4) Paragraph (2A) was inserted by S.I. 1994/633.

- (a) the place where the patient was residing when he was accepted by the doctor pursuant to paragraph 6 or, as the case may be, when he was assigned to the doctor pursuant to regulation 21 or, in the case of a patient who was previously on the list of a doctor in a practice declared vacant, when the doctor succeeded to the vacancy;
 - (b) such other place as the doctor has informed the patient and the FHSA is the place where he has agreed to visit and treat the patient;
 - (c) some other place in the doctor’s practice area.
- (6) Nothing in this paragraph prevents the doctor from—
- (a) arranging for the referral of a patient pursuant to paragraph 12(2)(d) without first seeing the patient, in a case where the medical condition of the patient makes that course of action appropriate; or
 - (b) visiting the patient in circumstances where this paragraph does not place him under an obligation to do so.”
- (3) The existing provision of paragraph 25 (which says that a deputy may treat patients at times and places other than those approved for the doctor for whom he is acting) shall be sub-paragraph (1) of that paragraph, and at the end there is inserted—
- “(2) A doctor acting as a deputy for another doctor may not treat the other doctor’s patients at any place approved under paragraph 29A unless it is so approved for the other doctor.”
- (4) In paragraph 27 (arrangements at practice premises), for sub-paragraph (a) there is substituted—
- “(a) provide proper and sufficient accommodation—
 - (i) at his practice premises, having regard to the circumstances of his practice, and
 - (ii) at any other premises at which the FHSA, in accordance with paragraph 29A, has agreed he may treat his patients; and”
- (5) After paragraph 29 (doctors' availability to patients), there is inserted—

“Availability to patients outside normal hours

29A.—(1) Subject to the provisions of this paragraph, a doctor may apply to the FHSA for approval to treat patients at premises other than his practice premises outside the hours for which he is normally available pursuant to paragraph 29 (in this paragraph referred to as “normal hours”).

(2) An application under sub-paragraph (1) shall be made in writing and shall state the address of the premises.

(3) An application under sub-paragraph (1) shall not be approved by the FHSA unless it is satisfied that—

- (a) having regard to the fact that the premises are for the treatment of patients outside normal hours and to all other relevant circumstances, the premises to which the application relates are likely to be reasonably convenient to the doctor’s patients; and
- (b) the location of those premises is in accordance with any condition imposed in relation to the doctor making the application pursuant to section 33(4)(b) of the Act (distribution of general medical services).

(4) Sub-paragraphs (10) to (15) of paragraph 29 shall apply to an application under sub-paragraph (1) of this paragraph as they apply to an application under paragraph 29(1).

(5) Where the FHSA determines an application under sub-paragraph (1) by granting approval (with or without conditions), the doctor shall inform his patients by displaying a

notice at his practice premises, stating the address of the premises for which approval has been granted.

(6) A doctor may apply to the FHSA for a variation of any approval granted under this paragraph, and any such application shall be made and determined as if it were the first application for the purposes of this paragraph.

(7) Where it appears to the FHSA that premises which it has approved under this paragraph may no longer be reasonably convenient to the doctor's patients, it may give notice to the doctor that it proposes to review the terms of the approval.

(8) On any review under sub-paragraph (7), the FHSA shall allow the doctor a period of 30 days beginning with the date on which he receives the notice within which to make representations to the FHSA about its proposals.

(9) After considering any representations made in accordance with sub-paragraph (8), the FHSA may determine to—

- (a) continue its approval;
- (b) continue its approval subject to such new or varied conditions as it sees fit to impose; or
- (c) withdraw its approval.

(10) The FHSA shall notify the doctor in writing of its determination under sub-paragraph (9); and where it determines to withdraw its approval or to continue it subject to new or varied conditions, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (11).

(11) A doctor may, within the period of 30 days beginning with the date on which he receives the notice referred to in sub-paragraph (10), appeal in writing to the Secretary of State against the withdrawal of approval or against any condition imposed pursuant to sub-paragraph (9); and sub-paragraphs (14) and (15) of paragraph 29 shall apply to any such appeal as they apply to an appeal under that paragraph.”

(6) In Schedule 12 to the principal Regulations (information to be included in practice leaflets), after paragraph 9 there is inserted—

“**9A.** The address of any premises approved under paragraph 29A of Schedule 2 at which patients may be invited to attend for treatment outside the hours for which the doctor is normally available pursuant to paragraph 29 of Schedule 2.”

Fees

4.—(1) Schedule 2 to the principal Regulations (terms of service for doctors) is amended as follows.

(2) In paragraph 38 (which prohibits a doctor from charging a fee except for the services listed in that paragraph), at the end there is inserted—

“(o) for prescribing or providing drugs for malaria chemoprophylaxis.”

(3) In paragraph 40 (which says that a doctor may not charge for prescriptions), for “and (j)” there is substituted“, (j) and (o)”.

16th January 1995

Gerald Malone
Minister of State,
Department of Health

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services) Regulations 1992, which regulate the terms on which general medical services are provided under the National Health Service Act 1977.

Regulation 2 amends regulations 12A and 13 of the 1992 Regulations (which concern the re-advertisement of practice vacancies and the subsequent selection of applicants for practice vacancies) to remove the need for a Family Health Services Authority (“FHSA”) to make a resolution to give no more notices of a practice vacancy if 20 or more applications have been received in respect of the vacancy, or the maximum of 3 further notices advertising the vacancy has already been reached.

Regulation 3 amends doctors' terms of service to enable doctors to treat patients at premises other than their practice premises outside their normal hours of availability. They must first obtain FHSA approval and must inform their patients of the address of any such premises. The premises must be proper and sufficient, and may be inspected by the FHSA or the Local Medical Committee. Regulation 3 also amends doctors' terms of service to say that a deputy doctor may not treat patients at any premises approved under the new provision unless the doctor for whom he is acting has obtained the necessary approval.

Regulation 4 amends doctors' terms of service to add providing or prescribing drugs against developing malaria to the list of services for which a doctor may charge a fee.