

---

STATUTORY INSTRUMENTS

---

**1997 No. 1014**

**The National Health Service (Fund-Holding Practices) (Scotland) Regulations 1997**

**PART II**

**RECOGNITION**

**Application for recognition as a fund-holding practice**

2.—(1) An application shall be made in writing on a form approved by the Secretary of State and shall be accompanied by such additional information, including documents and other writings, as the form states may be required to enable the Health Board to determine the application.

(2) The application shall state whether it is an application for recognition as a primary care purchasing practice, a standard fund-holding practice or a purchasing co-operative.

(3) An application shall be signed by each member of the practice making it and shall be sent to the relevant Health Board.

(4) When an application has been made but before it has been determined in accordance with regulation 4, the members of the practice may, by notice to the relevant Health Board signed by each member of the practice, change their application for recognition as a standard fund-holding practice, a primary care purchasing practice, or as the case may be, a purchasing co-operative.

(5) Where at least one of the members of a practice wishing to make an application is on the medical list of a Health Authority, section 87A of the Act shall operate subject to the following modification, namely, at the end of subsection (1) there shall be added the words “except, if at least one of those practitioners is also providing general medical services in accordance with arrangements under section 29 of the National Health Service Act 1977, where more patients on the list of members of the practice reside in England than in Scotland”.

**Grant of recognition as a fund-holding practice**

3.—(1) A Health Board shall not grant recognition as a standard fund-holding practice, a primary care purchasing practice or a purchasing co-operative (as the case may be) unless it is satisfied that the conditions specified in Schedule 1 to these Regulations are fulfilled.

(2) For the purposes only of the payment and application of the management allowance referred to in regulation 21, recognition shall take effect on the date on which the Health Board determines to grant recognition.

**Determination of application**

4.—(1) The relevant Health Board shall—

- (a) within the period of three months from its receipt of an application, determine whether to grant or refuse recognition as a fund-holding practice and if it determines to grant recognition, shall determine the date on which the grant of recognition is to have effect;

- (b) within the period of fourteen days from making its determination send to each member of the practice notice of that determination including, where it determines to grant recognition, the date on which the grant of recognition is to have effect; and
- (c) where the determination is for refusal of recognition, include in the notice a statement of the reasons for its determination, and, except in the case of an application for recognition as a purchasing co-operative, inform each member of the practice of the right to appeal to the Secretary of State against the refusal.

(2) Where the relevant Health Board has failed, by the end of the period of three months specified in the preceding paragraph, to determine an application, the application shall be deemed to have been determined by refusal of recognition.

### **Appeals to the Secretary of State against refusal of recognition**

5.—(1) The members of a practice may appeal to the Secretary of State against refusal by a relevant Health Board of recognition of the practice as a fund-holding practice.

(2) An appeal under this regulation shall be made by a notice signed by all the members of the practice and shall be sent to the Secretary of State within the period of one month beginning on the date on which notice of the determination of the relevant Health Board to refuse recognition was sent to the members of the practice or, in a case to which regulation 4(2) applies, on the date one month after the end of the period of three months specified in regulation 4(1)(a).

(3) The Secretary of State may dispense with the signature requirement mentioned in paragraph (2) where it appears to him just and proper to do so.

(4) A notice of appeal shall contain a concise statement of the grounds of appeal on which the practice relies.

(5) The Secretary of State shall send a copy of the notice of appeal to the relevant Health Board.

(6) The Secretary of State may, if he is of the opinion that the appeal is of such a nature that it can properly be determined without an oral hearing, determine the appeal without an oral hearing.

(7) If the Secretary of State is of the opinion that an oral hearing is required he shall appoint one or more persons to hear the appeal and shall send to each member of the practice and to the relevant Health Board a notice of the date of the hearing and the time and place at which it is to be held.

(8) All members of the practice may attend the hearing and the practice may be represented by a member of the practice or some other person appointed for the purpose by the practice and the relevant Health Board may be represented by a member or officer of the Board appointed for the purpose by the Health Board.

(9) Subject to paragraph (8), procedure at the hearing shall be as considered by the person or persons appointed to hear the appeal to be appropriate in the circumstances.

(10) The person or persons hearing the appeal shall report to the Secretary of State in writing and the report shall contain such findings of fact as the person or persons hearing the appeal consider necessary to enable the Secretary of State to determine the appeal.

(11) The Secretary of State, on receipt of the report, shall determine the appeal having regard to the provisions of these Regulations and the findings of fact in the report and shall thereafter send to each member of the practice which made the appeal, and to the relevant Health Board against whose refusal of recognition the appeal was made, a notice in writing of, including a statement of the reasons for, his determination.

(12) Where the Secretary of State allows the appeal of a practice under this regulation against refusal of recognition, he shall grant recognition to the practice so as to have effect from a date specified in the notice of his determination of the appeal.