
STATUTORY INSTRUMENTS

1998 No. 674

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Service Committees
and Tribunal) Amendment Regulations 1998**

<i>Made</i>	- - - -	<i>11th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State for Health, in exercise of powers conferred on him by sections 29, 45(1), 49, 49C(2) and 126(4) of the National Health Service Service Act 1977(1) and section 39(2) of and paragraphs 3(4) and (5) and 7 of Schedule 1 to the National Health Service (Primary Care) Act 1997(2) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunal and Inquiries Act 1992(3), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Service Committees and Tribunal) Amendment Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992(4).

-
- (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 29 was extended by the Health and Medicines Act 1988 (c. 49), section 1 and amended by the Health Services Act 1980 (c. 53), 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; S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18. Section 45 was amended by the 1980 Act, Schedule 1, paragraph 57; by the Health and Social Security Act 1984 (c. 48) and by the Health Authorities Act 1995 (c. 11), Schedule 1, paragraph 33. Section 49 was amended by the National Health Service (Amendment) Act 1995 (c. 31) (“the 1995 Act”), section 2(1). Section 49C was inserted by section 2(1) of the 1995 Act. Section 126(4) was amended by the 1990 Act, section 65(2).
- (2) 1997 c. 46.
- (3) 1992 c. 53.
- (4) S.I. 1992/664; relevant amending instruments are S.I. 1995/3091 and S.I. 1996/703.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation), in paragraph (1) there shall be inserted the following definitions in the places which will maintain alphabetical order—

- ““the 1997 Act” means the National Health Service (Primary Care) Act 1997;”;
- ““personal medical services” has the meaning given by section 1(8) of the 1997 Act;”;
- ““pilot scheme” has the meaning given by section 1(1) of the 1997 Act;”;
- and
- ““pilot scheme practitioner” has the meaning given by section 15(3) of the 1997 Act;”.

Amendment of regulation 4 of the principal Regulations

3.—(1) Regulation 4 of the principal Regulations (provisions relating to the start of disciplinary proceedings) shall be amended as follows.

(2) In paragraph (5), after “doctor was included” there shall be inserted—
“; or

- (c) with which the agreement constituting the pilot scheme was made, where the matter relates to the act or omissions of a doctor when temporarily performing personal medical services in connection with a pilot scheme in place of a pilot scheme practitioner who is normally responsible for the performance of those services”.

(3) In paragraph (6)(a), after “relevant time” there shall be inserted “or who at the relevant time was a pilot scheme practitioner”.

Amendment of regulation 20 of the principal Regulations

4. In regulation 20 of the principal Regulations (power of Local Representative Committees to consider complaints), in paragraph (1) after “relevant locality” there shall be inserted “(other than in connection with a pilot scheme)”.

Amendment of regulation 21 of the principal Regulations

5. In regulation 21 of the principal Regulations (interpretation and forms), in paragraph (1)—
- (a) in the definition of “application”, after “the Act” there shall be inserted “or paragraph 5 of Schedule 1 to the 1997 Act”;
 - (b) in the definition of “representations”, after “the Act” there shall be inserted “or paragraph 3(1) or (2) of Schedule 1 to the 1997 Act”;
 - (c) in the definition of “respondent”, after “the Act” there shall be inserted “or not included pursuant to a direction under paragraph 4(1) of Schedule 1 to the 1997 Act”.

Amendment of regulation 24 of the principal Regulations

6.—(1) Regulation 24 of the principal Regulations (making of representations and preliminary matters) shall be amended as follows.

(2) For paragraph (1) there shall be substituted—

“(1) Representations to the Tribunal—

- (a) under section 46(1) of the Act that the continued inclusion of a person’s name in a medical list, dental list, ophthalmic list or list of persons providing pharmaceutical services would be prejudicial to the efficiency of the services in question; or

- (b) under paragraph 3 of Schedule 1 to the 1997 Act that the inclusion of a person's name in a medical list would be prejudicial to the efficiency of general medical services,

shall be made in accordance with this regulation.

(1A) Subject to paragraph (1B), the representations referred to in paragraph (1) shall—

- (a) be made in writing;
- (b) be signed by the complainant or on his behalf by some person authorised by him; and
- (c) include a preliminary statement of the alleged facts and the grounds upon which he intends to rely,

and shall be sent to the Tribunal.

(1B) The representations referred to in paragraph (1)(b) shall be sent to the Tribunal before the end of the period of two weeks beginning with the date on which the Health Authority received the person's application for his name to be included in the medical list.”.

(3) In paragraph (2)—

- (a) for “the period of 28 days beginning with the day on which the Tribunal sent him notice of its requirement”(5) there shall be substituted “such period (being not less than 14 nor more than 28 days), beginning with the day on which the Tribunal sent him notice of its requirement, as the Tribunal shall specify in the notice”; and
- (b) for “paragraph (1)(c)” there shall be substituted “paragraph (1A)(c)”.

(4) In paragraph (6)(a), for “paragraph (1)(c)” there shall be substituted “paragraph (1A)(c)”.

Amendment of regulation 26 of the principal Regulations

7.—(1) Regulation 26 of the principal Regulations (inquiry as to representations) shall be amended as follows.

(2) In paragraph (3)(c), after “the Act” there shall be inserted “or under paragraph 4(1) of Schedule 1 to the 1997 Act”.

(3) In paragraph (5)—

- (a) after “contains a direction under section 46(2)” there shall be inserted “or under paragraph 4(1) of Schedule 1 to the 1997 Act”; and
- (b) after “or both”(6) there shall be inserted “or a direction under paragraph 4(1) of Schedule 1 to the 1997 Act”.

Amendment of regulation 28 of the principal Regulations

8. For regulation 28 of the principal Regulations (applications for removal of disqualification) there shall be substituted—

“Applications for removal of disqualification

28.—(1) An application for a direction—

- (a) under section 47 of the Act that a person shall no longer be disqualified for inclusion in any list to which a direction under section 46 of the Act relates; or

(5) These words form part of an amendment made by S.I. 1995/3091, regulation 12(4).

(6) These words were inserted by S.I. 1995/3091, regulation 8(5), in relation to doctors and dentists only.

- (b) under paragraph 5 of Schedule 1 to the 1997 Act that a person shall no longer be disqualified for inclusion in any medical list to which a direction under paragraph 4 of that Schedule relates,

may be made to the Tribunal and shall be made in accordance with this regulation.”.

(2) An application made under paragraph (1) shall—

- (a) be made in writing;
- (b) be signed by or on behalf of the applicant;
- (c) contain a statement of the grounds on which it is made; and
- (d) include a copy of each document which the applicant proposes to put in evidence.

Amendment of regulation 29 of the principal Regulations

9.—(1) Regulation 29 of the principal Regulations (applications to the Tribunal) shall be amended as follows.

(2) In paragraph (2), for “regulation 28(d)” there shall be substituted “regulation 28(2)(d)”.

(3) In each of paragraph (3)(a) and paragraph (6)(c), after “the Act” there shall be inserted “or (as the case may be) under paragraph 5 of Schedule 1 to the 1997 Act”.

Amendment of regulation 31 of the principal Regulations

10. In regulation 31 of the principal Regulations (publication of decisions), after paragraph (e)(7) there shall be inserted—

- “(f) any direction of the Tribunal under paragraph 4(1) or 5 of Schedule 1 to the 1997 Act;
- (g) any imposition or removal of a disqualification referred to in paragraph 6 of Schedule 1 to the 1997 Act (direction in Northern Ireland).”.

Publication of information about applications involving preferential treatment

11. After regulation 31A of the principal Regulations, there shall be inserted the following new regulation—

“Publication of information about applications involving preferential treatment

31B. The Secretary of State shall publish in such a manner as he thinks fit information about—

- (a) applications made to Health Authorities for inclusion in their medical list of the names of medical practitioners in respect of whom Schedule 1 to the 1997 Act applies; and
- (b) the right of persons to make representations against such applications.”.

Amendment of regulation 35 of the principal Regulations

12. In regulation 35 of the principal Regulations (power to extend time limits), in paragraph (3) (b), for “regulation 24(2)” there shall be substituted “regulation 24(1B), (2)”.

(7) Paragraph (e) was inserted by [S.I. 1995/3091](#), regulation 10, in relation to doctors and dentists only.

Amendment of Schedule 8 to the principal Regulations

13. Both Parts of Schedule 8 (forms for use in proceedings before Tribunal) shall be amended as follows—

- (a) for “In the matter of the National Health Service Act 1977” there shall be inserted “In the matter of [(**ba**)]”;
- (b) for “continued inclusion” there shall be substituted “[continued (**ea**)] inclusion”;
- (c) after note (**b**) there shall be inserted—
 - “(ba) the National Health Service Act 1977 or the National Health Service (Primary Care) Act 1997, as the case may be”;
- (d) after note (**e**) there shall be inserted—
 - “(ea) delete the word “continued” if the representations are being made under Schedule 1 to the National Health Service (Primary Care) Act 1997;”.

Amendment of Schedule 9 to the principal Regulations

14.—(1) Schedule 9 (hearings under Part III) shall be amended as follows.

(2) In paragraph 1, after “inquiry shall” there shall be inserted “whether or not on application by any party”.

(3) In paragraph 2, after “included” there shall be inserted “(or, in the case of representations made under the 1997 Act, in whose medical list the respondent is seeking to be included)”.

11th March 1998

Frank Dobson
One of Her Majesty’s Principal Secretaries 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 further amend the National Health Service (Service Committees and Tribunal) Regulations 1992 to implement the provisions contained in Schedule 1 to the National Health Service (Primary Care) Act 1997 (“the 1997 Act”). Schedule 1 of the 1997 Act applies where the Secretary of State determines that a medical practitioner should be given preferential treatment when making an application for his name to be included in an Health Authority’s medical list after ceasing to perform personal medical services. The 1997 Act provides that a Health Authority or any other person may make representations to the National Health Service Tribunal (“the Tribunal”) against preferential treatment.

These Regulations provide that the procedure relating to such representations against such preferential treatment will be similar to the provisions made for other representations to the Tribunal, except that any representations against preferential treatment must be made within a period of 14 days from the date an authority receives an application for inclusion in a medical list from a medical practitioner, in relation to whom the Secretary of State has determined should be given preferential treatment.

The 1997 Act provides, where representations against preferential treatment have been made, that the Tribunal may direct that the person’s name may not be included in the medical list kept by the Health Authority. These Regulations provide for a procedure whereby someone who is subject to such a direction can apply to the Tribunal for such a direction to be removed.

These Regulations also make consequential amendments to the 1992 Regulations to take account of a pilot scheme doctor acting as a deputy for a general practitioner, and vice versa.

These Regulations impose no cost on business.