

# THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES) REGULATIONS 1992

## *Schedule 2*

### Terms of Service for Doctors

#### ***Important Note***

This copy of the NHS (General Medical Services) Regulations 1992 has been electronically reproduced from a version published March 1999 by the GPC secretariat, which was the 1996 consolidated version additionally incorporating seven further statutory instruments (SI).

Although the document has been checked for errors, it is intended only as a guide for members and constituents of the WMRLMC, and has no official status. For a statement of law, reference must be made to the appropriate statutory instrument.

#### **Absences, deputies, assistants and partners**

18. (1) Subject to sub-paragraph (2) and paragraph 18A. [amended by SI 1996 No 702 wef 1/4/96], a doctor is responsible for ensuring the provision for his patients of the services referred to in paragraph 12 throughout each day during which his name is included in the HA's medical list.
- (2) A doctor who was, prior to 1st April 1990, relieved by the HA of such responsibility in respect of his patients during times approved by the HA may, continue to enjoy such relief for so long as his name is included in the medical list.

#### **Out of hours arrangements**

- 18A. (1) In this paragraph and in paragraph 18B:
- (a) "out of hours period" means:
- (i) the period beginning, at 7pm on Mondays to Fridays and ending, at 8am the following day,
- (ii) the period between 1pm on Saturday and 8am on the following Monday, and  
Good Friday, Christmas Day and bank holidays,
- and "part" of an out of hours period means any part of any one or more of the periods described in paragraphs (i) to (iii);
- (b) "out of hours arrangement" means an arrangement under sub-paragraph (2); and
- (c) "transferee doctor" means a doctor who has undertaken to carry out the obligations of another doctor under these terms of service during part or all of the out of hours period in accordance with an out of hours arrangement.
- (2) Subject to sub-paragraphs (3) to (15), a doctor may, with the approval of the Health Authority, make an arrangement with a doctor who is on a medical list to transfer his obligations under the terms of service during part or all of the out of hours period to that other doctor, but that arrangement shall terminate if the doctor with whom it is

made ceases to be included in a medical list in accordance with section 12(2) of the 1997 Act to enable him to perform personal medical services under a pilot scheme. [as amended by SI 1998 No 682 wef 1/4/98]

- (3) A doctor may make more than one out of hours arrangement; and may do so (for example) with different transferee doctors and in respect of different patients, different times and different parts of his practice area.
- (4) A doctor may retain responsibility for, or make separate out of hours arrangements in respect of, the provision of maternity medical services to patients with whom he has made an arrangement under regulation 3 1.
- (5) Nothing in this paragraph prevents a doctor from retaining or resuming his obligations in relation to named patients.
- (6) Where a doctor is on the obstetric list, he shall not make an out of hours arrangement in respect of the provision of maternity medical services to patients with whom he has made an arrangement under regulation 3 1, unless the transferee doctor is also on an obstetric list.
- (7) An application to the Health Authority for approval shall be made in writing and shall state:
  - (a) the name and address of the proposed transferee doctor and, where his name is included in the list of another Health Authority, the number of patients on his list;
  - (b) the periods during which the doctor's obligations under these terms of service are to be transferred;
  - (c) how the proposed transferee doctor intends to meet the doctor's obligations during the periods specified under paragraph (b);
  - (d) the arrangements for the transfer of the doctor's obligations under these terms of service to and from the transferee doctor at the beginning and end of the periods specified under paragraph (b);
  - (e) whether the proposed arrangement includes the doctor's obligations in respect of maternity medical services;
  - (f) how long the proposed arrangements are intended to last and the circumstances in which the doctor's obligations under these terms of service during the periods specified under paragraph (h) would revert to him;
  - (g) what arrangements are proposed to enable the doctor's patients to contact the proposed transferee doctor, and
  - (h) where the proposed transferee doctor's name is included in the list of another Health Authority, whether:
    - (i) he has been notified under regulation 24(4) of the National Health Service (Service Committees and Tribunal) Regulations<sup>1</sup> that the Tribunal intends to hold an inquiry under section 46 of the 1977 Act as to representations made in relation to him, or
    - (ii) he has been notified under section 42(5) of the Medical Act 1983<sup>2</sup> that the Preliminary Proceedings Committee of the General Medical Council has decided that he should be referred to the Professional Conduct Committee or to the Health Committee.

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<sup>1</sup> SI 1992/664, amended by 1993/2972, 1994/1634 and 1995/3091.

<sup>2</sup> 1983 c.54.

- (8) The Health Authority shall determine the application before the end of the period of 28 days beginning with the day on which the Health Authority received it.
  - (9) The Health Authority shall grant approval to a proposed out of hours arrangement if it is satisfied:
    - (a) having regard, in particular, to the interests of the doctor's patients, that the arrangement is reasonable;
    - (b) having regard, in particular, to all reasonably foreseeable circumstances that the arrangement is practicable and will work satisfactorily;
    - (c) that it will be clear to the doctor's patients how to seek personal medical services during the out of hours period; and
    - (d) that if the arrangement comes to an end, the doctor has in place proper arrangements for the immediate resumption of his responsibilities, and shall not refuse to grant approval without first consulting the Local Medical Committee.
  - (10) The Health Authority shall give notice to the doctor of its determination and, where it refuses an application, it shall send the doctor 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, before the end of the period of 30 days beginning with the day on which the Health Authority's notification under sub-paragraph (10) was sent, appeal in writing to the Secretary of State against any refusal of an application under sub-paragraph (7).
  - (12) The Secretary of State may, when determining, an appeal, either confirm the determination of the Health Authority or substitute his own determination for that of the Health Authority.
  - (13) The Secretary of State shall give notice to the doctor of his determination and shall in every case include with the notification a written statement of the reasons for the determination.
  - (14) Where the Health Authority (or, on appeal, the Secretary of State) has approved an out of hours arrangement and the name of the transferee doctor is not included in the Health Authority's medical list, the Health Authority shall give notice of the approval and of the details of the arrangement to the Health Authority in whose list the name of the transferee doctor is included.
  - (15) Where the Health Authority (or, on appeal, the Secretary of State) has approved an out of hours arrangement:
    - (a) the transferee doctor may himself employ or engage an assistant or deputy in respect of part or all of the period covered by the out of hours arrangement, and if he does so, paragraphs 19 to 26 shall apply as if he were the doctor for the purposes of those paragraphs; and
    - (b) a transferee doctor shall not enter into any other out of hours arrangement in respect of the patients for whom he has accepted responsibility under this paragraph.
- 18B. (1) Subject to paragraph 18C, where it appears to the Health Authority that it may no longer be satisfied of any of the matters referred to in sub-paragraphs (a) to (d) of

paragraph 18A(9), it may give notice in writing to the doctor that it proposes to review the approval.

- (2) On any review under sub-paragraph (1), the Health Authority shall allow the doctor a period of 30 days, beginning with the day on which it sent the notice, within which to make representations in writing to the Health Authority.
  - (3) After considering any representations made in accordance with sub-paragraph (2), the Health Authority may determine either to continue or to withdraw its approval but shall not withdraw its approval without first consulting the Local Medical Committee.
  - (4) The Health Authority shall give notice to the doctor of a determination under sub-paragraph (3).
  - (5) Where the Health Authority withdraws its approval, 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 (6).
  - (6) A doctor may, within the period of 30 days beginning, with the day on which the notice referred to in sub-paragraph (4) was sent, appeal in writing, to the Secretary of State against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 18A shall apply to any such appeal.
  - (7) Subject to paragraph 18C(I), where the Health Authority withdraws approval, the withdrawal shall not take effect until the end of the period of two months beginning with the date on which the notice referred to in sub-paragraph (4) was sent or, where there is an appeal under sub-paragraph (6) and the appeal is dismissed, the date on which the doctor receives notice of the dismissal of the appeal whichever is the later.
- 18C.
- (1) Where it appears to the Health Authority, whether after a review under paragraph 18B or not, that it is necessary in the interests of the doctor's patients to withdraw its approval immediately, it may withdraw its approval.
  - (2) The Health Authority shall give notice to the doctor of a determination under sub-paragraph (1) and shall include with the notice a statement of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (4).
  - (3) An immediate withdrawal of approval under paragraph (1) shall take effect on the day on which the notice referred to in sub-paragraph (2) is received by the doctor.
  - (4) A doctor may, within the period of 30 days beginning with the day on which the notice referred to in sub-paragraph (2) was sent, appeal in writing to the Secretary of State against the withdrawal of approval and sub-paragraphs (12) and (13) of paragraph 18A shall apply to any such appeal. [amended by SI 1996 No 702 wef 1/4/96]
- 19.
- (1) Subject to the following provisions of this paragraph, and to any out of hours arrangement made under paragraph 18A(2) [amended by SI 1996 No 702 wef 1/4/96] a doctor shall give treatment personally.

- (2) Subject to sub-paragraphs(3), (5) and (6), a doctor (in this subparagraph referred to as "the patient's doctor") shall be under no obligation to give treatment personally to a patient provided that reasonable steps are taken to ensure the continuity of the patient's treatment, and in those circumstances treatment may be given:
    - (a) by another doctor acting as a deputy, whether or not he is a partner or assistant of the patient's doctor; or
    - (b) in the case of treatment which it is clinically reasonable in the circumstances to delegate to someone other than a doctor, by a person whom the doctor has authorised and who he is satisfied is competent to carry out such treatment.
  - (3) Subject to sub-paragraph (4), in the case of maternity medical services a doctor on the obstetric list shall not arrange for the provision of such services by another doctor unless that doctor is a doctor on the obstetric list -or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of maternity medical services under the pilot scheme. [as amended by SI 1998 No 682 wef 1/4/98] or satisfies one or more of the criteria et out in Part 1 of Schedule 5.
  - (4) Sub-paragraph (3) shall not apply where there has been a summons to an obstetric emergency.
  - (5) In the case of child health surveillance services, a doctor who has, pursuant to regulation 28, undertaken to provide such services shall not arrange for the provision of such services by:
    - (a) another doctor unless that doctor is included in a child health surveillance list-or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of child health surveillance services under the pilot scheme [as amended by SI 1998 No 682 wef 1/4/98]; or
    - (b) any other person without the consent of the HA.
  - (6) In the case of minor surgery services, a doctor who has, pursuant to regulation 33, undertaken to provide such services shall not arrange for the provision of such services by:
    - (a) another doctor unless that doctor is included in a minor surgery list or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of minor surgery services under the pilot scheme., [as amended by SI 1998 No 682 wef 1/4/98];  
or
    - (b) any other person.
  - (7) In this paragraph "a summons to an obstetric emergency" means a summons to the doctor by a midwife or on behalf of the patient to attend when medical attention is required urgently by a woman or her baby during pregnancy, labour or the post-natal period, as defined in regulation 31(7).
20.
  - (1) In relation to his obligations under these terms of service, a doctor is responsible for all acts and omissions of:
    - (a) any doctor acting as his deputy;
    - (b) any organisation providing deputy doctors as mentioned in paragraph 22 with which he has entered into an arrangement in accordance with that paragraph., [amended by SI 1997 No 730 wef 1/4/97] while acting, on his behalf, and

(c) any person employed by, or acting on behalf of, him or such a deputy or -such an organisation. [amended by SI 1997 No 730 wef 1/4/97],  
except where the act or omission is one for which a deputy is responsible under sub-paragraph (2) ,.or for which the doctor is not responsible under sub-paragraph (3). [as amended by SI 1998 No 682 wef 1/4/98].

(2) Where a doctor whose name is included in the medical list of any HA is acting, as deputy to another doctor whose name is included in the medical list of an HA, the deputy alone is responsible for:

- (a) his own acts and omissions in relation to the obligations under these terms of service of the doctor for whom he acts as deputy; and
- (b) the acts and omissions of any person employed by him or acting, on his behalf.

(3) Where, in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients, a pilot doctor acts as a deputy to a doctor whose name is included in the medical list that doctor is not responsible for the acts or omissions of the pilot doctor<sup>3</sup>. [as amended by SI 1998 No 682 wef 1/4/98]

21. (1) A doctor shall inform the -HA. of any arrangements for the engagement of a deputy on a regular basis unless the deputy:

- (a) is an assistant of the doctor, or is a doctor included in the medical list of an HA; and
- (b) is to carry out the arrangements at the doctor's practice premises.

(2) Where a doctor proposes to be absent from his practice for more than a week, he shall inform the -HA. of the name of any doctor responsible for his practice during, his absence.

22 (1) In this paragraph "organisation providing deputy doctors" means a person who provides deputies to doctors and includes a body which:

- (a) consists only of
  - (i) doctors whose names are included in the list of a Health Authority and who arrange to act as deputies to each other, or
  - (ii) pilot doctors and doctors whose names are included in the list of a Health Authority who co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients; and 4 [as amended by SI 1998 No 682 wef 1/4/98]
- (b) keeps separate accounts in relation to such arrangements.

(2) Before entering into arrangements with an organisation providing deputy doctors for the provision of any deputy, a doctor shall:

- (a) obtain the written agreement of the organisation that any doctor it provides to him:
  - (i) will not be subject to a declaration under section 46(2)(c) of the Act or under any corresponding provision in force in Scotland or Northern

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<sup>3</sup> See the National Health Service (Pilot Schemes: Part II Practitioners) Regulations 1998 (SI 1998), regulation 2(2)(b) for provision enabling doctors providing general medical services to participate in such arrangements.

- Ireland that he is not fit to be engaged in any capacity in the provision of general medical services,
- (ii) will not be suspended by direction of the Tribunal, other than in a case falling within section 49B(3) of the Act, and
  - (iii) will (unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training) be suitably experienced within the meaning of section 31 of the Act (other than by virtue of being a restricted services principal) or will have the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994; and
  - (iv) will not be subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services; and [as amended by SI 1998 No 682 wef 1/4/98]
- (b) take all reasonable steps to satisfy himself that the service provided by the organisation (including its monitoring, arrangements) will be adequate and appropriate having regard in particular to the interests of the doctor's patients.
- (3) A doctor shall notify the HA of any arrangements he makes with an organisation providing deputy doctors.
- (4) A doctor shall from time to time and at any time when there are grounds for doing so, take reasonable steps to satisfy himself that an organisation providing deputy doctors with which he has entered into arrangements for the provision of any deputy:
- (a) continues to comply with the agreement referred to in subparagraph (2)(a); and
  - (b) continues to provide a service which is adequate and appropriate as mentioned in subparagraph (2)(b).
- (5) Subject to subparagraph (6), if the HA so requests, a doctor shall furnish it with evidence that such an organisation is continuing:
- (a) to comply with the agreement mentioned in subparagraph (2)(a); or, as the case may be,
  - (b) to provide a service which is adequate and appropriate as mentioned in subparagraph (2)(b).
- (6) A HA shall not make a request for evidence under subparagraph (5)(b) unless:
- (a) it has reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in subparagraph (2)(b), and
  - (b) it has consulted the Local Medical Committee.
- (7) Subject to subparagraph (8), where as a result of evidence provided. [as amended by SI 1998 No 682 wef 1/4/98] under subparagraph (5)(b) the HA continues to have reasonable grounds for believing that the organisation providing deputy doctors is not providing, a service which is adequate and appropriate as mentioned in subparagraph (2)(b), it shall give notice (in this paragraph referred to as a "remedial notice") to the doctor specifying:
- (a) the grounds for concern;
  - (b) the remedial action which it considers necessary; and
  - (c) the date before which such action must be taken.

- (8) A HA shall not issue a remedial notice under subparagraph (7) without first consulting the Local Medical Committee.
- (9) Where a HA issues a remedial notice under subparagraph (7), it shall also send a copy of that notice to any other doctor who has made arrangements with the same organisation.
- (10) Where it appears to the HA:
  - (a) that an organisation providing deputy doctors with which a doctor has made arrangements for the provision of a deputy:
    - (i) is not complying with the agreement referred to in subparagraph (2)(a), or
    - (ii) has not taken the action specified in a remedial notice issued under subparagraph (7) within the time specified in that notice; or
  - (b) that a doctor's arrangement with such an organisation is such that the doctor's patients are at risk,

it may give notice to the doctor requiring, him to bring his arrangement with that organisation to an end either immediately or before such date as is stated in the notice.

- 22A. A doctor shall not engage another doctor as a deputy, or employ one as an assistant, unless the other doctor:
  - (a) is suitably experienced within the meaning of section 31 of the Act (other than by virtue of being a restricted services principal); or
  - (b) has the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994; or
  - (c) is a General Practice (GP) Registrar acting in the place of and under the supervision of the doctor responsible for his training., [substituted by SI 1997 No 730 wef 1/4/97] or;
  - (d) is a person engaged in employment under section 10 of the Medical Act 1983 in an approved medical practice.
- 23. A doctor shall not engage as a deputy or employ as an assistant any doctor:
  - (a) who, having been disqualified under section 46(2)(b) of the Act (or under any corresponding provision in force in Scotland or Northern Ireland) from inclusion in the medical list of an „HA. (or, in Scotland, of a Health Board or, in Northern Ireland, of a Health and Social Services Board), is also the subject of a declaration under section 46(2)(c) of the Act (or any corresponding provision in force in Scotland or Northern Ireland) that he is not fit to be engaged in any capacity in the provision of general medical services; or
  - (b) who is suspended by direction of the Tribunal, other than in a case failing, within section 49B(3) of the Act [amended by SI 1995 No 3093 wef 12/12/95]; or
  - (c) who is subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services. [as amended by SI 1998 No 682 wef 1/4/98]
- 24. (1) A doctor shall inform the HA of the name of any assistant he employs and of the termination of such employment. and shall not employ any one or more assistants for a total period of more than three months in any period of twelve months without the consent of the HA.

- (2) The HA shall periodically review and may withdraw any consent given, but, before refusing or withdrawing consent, the HA shall consult the Local Medical Committee.
  - (3) The doctor may appeal to the Medical Practices Committee against any refusal or withdrawal of consent.
  - (4) Any withdrawal of consent under this paragraph shall not have effect until the expiration of a period of one month after the date of notification of the withdrawal, but if the doctor appeals to the Medical Practices Committee against the withdrawal, and the Medical Practices Committee dismisses the appeal, the withdrawal shall not take effect until after such date as that Committee determines being a date falling not less than one month after the date of such dismissal.
- 25.
- (1) A doctor acting as a deputy for another doctor may treat patients at places and at times other than those approved pursuant to paragraph 29 in relation to the doctor for whom he is acting, but when determining the places and times at which he is to provide such treatment, the deputy shall have regard to the convenience of the patients.
  - (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, [amended by SI 1995 No 80 wef 6/2/95]
26. When issuing any document under these terms of service a deputy or assistant (other than a partner or assistant whose name is included in the medical list, or a pilot doctor acting as a deputy to a doctor whose name is included in the medical list in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing, general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients [as amended by SI 1998 No 682 wef 1/4/98]) shall, as well as signing the document himself, enter on it the name of the doctor for whom he is acting, if it does not already appear.