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STATUTORY RULES OF NORTHERN IRELAND

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**1998 No. 323**

**The Health and Personal Social Services (Fund-holding Practices) (Amendment) Regulations (Northern Ireland) 1998**

**Part I**

**General**

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Health and Personal Social Services (Fund-holding Practices) (Amendment) Regulations (Northern Ireland) 1998 and shall come into operation on 12th October 1998.

(2) In these Regulations, “the principal Regulations” means the Health and Personal Social Services (Fund-holding Practices) Regulations (Northern Ireland) 1993(1).

**Amendment of regulation 1 of the principal Regulations**

**2.**—(1) Regulation 1 of the principal Regulations (citation, commencement and interpretation) is amended as follows.

(2) In paragraph (2), after the definition of “fund-holding account”, insert—

““GP commissioning group” means a group of practices which have been granted recognition as a GP commissioning group in accordance with regulation 4;”.

**Amendment of regulation 2 of the principal Regulations**

**3.** In regulation 2 of the principal Regulations (application for recognition as a fund-holding practice) for paragraph (4)(2) substitute—

“(4) The application shall state whether it is an application for recognition as—

- (a) a community fund-holding practice,
- (b) a standard fund-holding practice, or
- (c) a GP commissioning group.”.

**Amendment of regulation 4 of the principal Regulations**

**4.**—(1) Regulation 4 of the principal Regulations (grant of recognition as a fund-holding practice) is amended as follows.

(2) In paragraph (1)(3) for “or as a community fund-holding practice” substitute “, a community fund-holding practice or a GP commissioning group”.

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(1) [S.R. 1993 No. 142](#) – as amended by [S.R. 1996 No. 131](#) and [S.R. 1997 No. 184](#)

(2) Paragraph (4) was inserted by regulation 3 of [S.R. 1997 No. 184](#)

(3) Paragraph (1) was amended by regulation 4 of [S.R. 1997 No. 184](#)

(3) For paragraph (2) substitute—

“(2) Subject to paragraph (3)(4)—

- (a) in the case of a standard fund-holding practice or a community fund-holding practice, recognition which has been granted before 1st April 2003 shall take effect from 1st April 2003;
- (b) in the case of a GP commissioning group, recognition shall take effect from 1st April following the grant of recognition.”.

#### **Amendment of regulation 6 of the principal Regulations**

5.—(1) Regulation 6(5) of the principal Regulations (conditions for continuing recognition) is amended as follows.

(2) Renumber regulation 6 as paragraph (1) of that regulation.

(3) In paragraph (1) (as so renumbered) after “community fund-holding practice” insert “or GP commissioning group”.

(4) After paragraph (1) (as so renumbered) insert—

- “(2) In relation to a GP commissioning group, Schedule 2 applies
  - (a) as if in paragraph 4, “17,” “19” and “19A” were omitted; and
  - (b) as if in paragraph 10, sub-paragraph (iv) were omitted.”.

#### **Amendment of regulation 8 of the principal Regulations**

6. In regulation 8(5)(6) of the principal Regulations (withdrawal or death of a member of a fund-holding practice), after “Where a member of a” insert “standard fund-holding practice or community”.

#### **Amendment of regulation 8A of the principal Regulations**

7. For regulation 8A(1)(7) of the principal Regulations (application for change in status of a recognised fund-holding practice) substitute—

“(1) A fund-holding practice of one kind may apply to become a fund-holding practice of a different kind.”.

#### **Amendment of regulation 10 of the principal Regulations**

8. In regulation 10 of the principal Regulations (consequences of renunciation of recognition), at the end of paragraph (2A)(8) insert—

“(and for this purpose regulation 21(2) shall apply as if the reference there to regulation 19A(7)(j) were to regulation 19A, and regulation 19A(2) shall not apply).”.

#### **Amendment of regulation 11 of the principal Regulations**

9. In regulation 11(2)(9) of the principal Regulations (grounds for removal of recognition), after “standard fund-holding practice” insert “or a GP commissioning group”.

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- (4) Paragraph (3) was inserted by regulation 3 of S.R. 1996 No. 131
  - (5) Regulation 6 was substituted by regulation 5 of S.R. 1997 No. 184
  - (6) Regulation 8 was substituted by regulation 4 of S.R. 1996 No. 131
  - (7) Regulation 8A was inserted by regulation 7 of S.R. 1997 No. 184
  - (8) Paragraph (2A) was inserted by regulation 5 of S.R. 1996 No. 131
  - (9) Paragraph (2) was substituted by regulation 8 of S.R. 1997 No. 184

### **Amendment of regulation 17 of the principal Regulations**

10. Before regulation 17(1) of the principal Regulations (purchase of goods and services) insert—
- “(A1) This regulation does not apply to the members of a GP commissioning group, and references in this regulation to “fund-holding practice” shall be construed accordingly.”

### **Amendment of regulation 18 of the principal Regulations**

11.—(1) Regulation 18 of the principal Regulations (limit on provision of goods and services) is amended as follows.

- (2) Renumber regulation 18 as paragraph (2) of that regulation.
- (3) Before paragraph (2) (as so renumbered) insert—
- “(1) This regulation does not apply to a GP commissioning group.”

### **Amendment of regulation 19 of the principal Regulations**

12. Before regulation 19(1)(10) of the principal Regulations (payments to staff) insert—
- “(A1) This regulation does not apply to the members of a GP commissioning group, and references in this regulation to “fund-holding practice” shall be construed accordingly.”

### **Amendment of regulation 19A of the principal Regulations**

13. In regulation 19A(11) of the principal Regulations (payment for management expenses)—
- (a) before paragraph (1) insert—
- “(A1) This regulation does not apply to the members of a GP commissioning group, and references in this regulation to “fund-holding practice” shall be construed accordingly.”;
- (b) in paragraph (2), after “management expenses” insert “other than on the expenses referred to in paragraph (7)(j)”; and
- (c) in paragraph (7), at the end of paragraph (h) omit “and”, and at the end of sub-paragraph (i) insert—
- “; and
- (j) the costs of redundancy payments to staff employed in connection with the management of the allotted sum (but only to the extent that such payments could be made by virtue of paragraph 52·6(f) of the Statement referred to in regulation 19(2)).”

### **Amendment of regulation 21 of the principal Regulations**

14.—(1) For regulation 21 of the principal Regulations (savings from the allotted sum) substitute—

#### **“Savings from the allotted sum**

21.—(1) The members of a fund-holding practice may discharge their obligations under regulations 16 and 17 and exercise their powers under regulations 19, 19A and 20 in such a way as to take into account any benefit to individuals on the lists of patients of the members of the practice which, in their opinion, would be derived from making savings to be applied in

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(10) Regulation 19 was substituted by regulation 8 of S.R. 1996 No. 131

(11) Regulation 19A was inserted by regulation 9 of S.R. 1996 No. 131

accordance with the following provisions of this regulation; and regulations 16, 17, 19, 19A and 20 shall be construed accordingly.

(2) Subject to paragraph (5), where the accounts for a financial year of members of a fund-holding practice have been audited, the members of a fund-holding practice may, within the period of four years after the end of the financial year, continue to apply any part of the allotted sum paid to them in respect of that financial year for the purposes specified in regulations 16, 17, 19, 19A(7)(j) and 20 or in accordance with paragraph (4) and, in addition, with the written consent of the Health and Social Services Board, for any one or more of the purposes specified in the following sub-paragraphs or in paragraph (3)—

- (a) the purchase of material or equipment which—
  - (i) can be used for the treatment of patients of the members of the practice, or
  - (ii) enhances the comfort or convenience of patients of the members of the practice, or
  - (iii) enables the practice to be managed more effectively and efficiently; or
- (b) the purchase of material or equipment relating to health education; or
- (c) in relation to any premises from which the members of the practice carry on their practice—
  - (i) improvements to the premises, including alterations to or decoration of the premises and the purchase of furniture and furnishings, and
  - (ii) building an extension provided that no acquisition of land is involved; or
- (d) the purchase of services in connection with an audit of clinical practice which relates to any of the goods and services which are included in the list of goods and services mentioned in regulation 17(2); or
- (e) commissioning research which relates to any of the goods and services included in the list mentioned in regulation 17(2); or
- (f) training for members of the fund-holding practice which is required in connection with their membership of the fund-holding practice.

(3) Subject to paragraph (5), with the written consent of the Health and Social Services Board, the members of a GP commissioning group may, in addition to the purposes specified in paragraph (2), apply savings for the purpose of training employees of members of the practice.

(4) The members of a fund-holding practice may, at any time, return to the Health and Social Services Board any savings which they do not wish to apply in accordance with paragraph (2) or (3).

(5) The Health and Social Services Board shall consent to the application of any part of an allotted sum for any of the purposes specified in paragraph (2) or paragraph (3) if it is satisfied—

- (a) that the proposed expenditure would—
    - (i) provide a benefit for the patients of the members of the practice, and
    - (ii) represent value for money; and
  - (b) that the financial position of the members of the practice in relation to the allotted sum is such that, if the proposed expenditure were incurred, the savings then left to them would not be less than the total amount of any overspends which it is reasonable to predict for the relevant financial years.
- (6) In paragraph (5)—

“overspend” means any amount by which the liabilities incurred by the members of a fund-holding practice in any financial year other than for the purposes for which Health

and Social Services Board consent is required under this regulation exceed the proposed allotted sum for that practice for that financial year; and

“relevant financial years” means—

- (i) the financial year in which the Health and Social Services Board consent to the proposed expenditure is sought; and
- (ii) where the accounts for the previous financial year have not yet been audited as mentioned in paragraph (2), that financial year.

(7) Where the Health and Social Services Board refuses its consent under paragraph (5), it shall send to the members of the fund-holding practice a notice stating the reasons for its refusal.”.

15. After regulation 21 insert—

**“Redundancy payments**

**21A.**—(1) Where the members of a fund-holding practice apply any part of the allotted sum for the purposes of paying redundancy payments under regulation 19 or 19A(7)(j), they shall secure that for the purpose of making any such payment the allotted sum is applied in the following order—

- (a) first, the payment is to be met (to the extent that it is permissible to do so under regulation 19A) from the available management allowance for the financial year in which the payment is made (“the current year”);
- (b) the payment is then to be met from available savings; and
- (c) only then is the payment to be met from any other part of the current year’s allotted sum.

(2) In paragraph (1), “available” means free from any binding obligation to apply for other purposes (but savings are not “available” if the Health and Social Services Board has consented in accordance with regulation 21(2) to their application for a purpose for which consent is required, even if no binding obligation to apply them for that purpose has yet been entered into).”.

**Amendment of Schedule 1 to the principal Regulations**

16. In Schedule 1 to the principal Regulations (conditions for obtaining recognition as a fund-holding practice) omit “as a fund-holding practice” from the heading.

**Amendment of Schedule 2 to the principal Regulations**

17. In Schedule 2 to the principal Regulations (conditions for continuing recognition as a fund-holding practice) omit “as a fund-holding practice” from the heading.