

2004 No. 156

HEALTH AND PERSONAL SOCIAL SERVICES

**The General Medical Services Transitional and
Consequential Provisions (No. 2)
(Northern Ireland) Order 2004**

Made - - - - - 31st March 2004

Coming into operation 1st April 2004

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The Department of Health, Social Services and Public Safety(**a**), in exercise of the powers conferred upon it by Articles 5 and 11 of the Primary Medical Services (Northern Ireland) Order 2004(**b**) and of all other powers enabling it in that behalf, hereby makes the following Order:

PART 1 GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the General Medical Services Transitional and Consequential Provisions (No. 2) (Northern Ireland) Order 2004 and shall come into operation on 1st April 2004.

(2) In this Order –

“the 1972 Order” means the Health and Personal Social Services (Northern Ireland) Order 1972(**c**);

“the 1991 Order” means the Health and Personal Social Services (Northern Ireland) Order 1991(**d**);

“the 1997 Regulations” means the General Medical Services Regulations (Northern Ireland) 1997(**e**);

“the 2003 Order” means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**f**);

“the 2004 Order” means the Primary Medical Services (Northern Ireland) Order 2004;

“the 2004 Regulations” means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(**g**);

“the Agency” means the Northern Ireland Central Services Agency for the Health and Social Services established under Article 26 of the 1972 Order;

“the Choice Regulations” means the Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998(**h**);

“additional services” has the same meaning as in the 2004 Regulations;

“core hours” means the period beginning at 8am and ending at 6.30pm on any day from and including Monday to Friday except a public holiday or a local holiday agreed with the Board;

“default contract” means a contract under Article 13 of the No. 1 Order and “default contractor” shall, except in Part 3, where it has the meaning given in Article 41(3), be construed accordingly;

“the dispute resolution procedure” means the procedure for resolution of disputes specified in paragraphs 93 and 94 of Schedule 5 to the 2004 Regulations;

(a) See S.I. 1999/283 (N.I. 1) Article 3(6)

(b) S.I. 2004/311 (N.I. 2)

(c) S.I. 1972/1265 (N.I. 14)

(d) S.I. 1991/194 (N.I. 1)

(e) S.R. 1997 No. 380

(f) S.I. 2003/1250

(g) S.R. 2004 No. 140

(h) S.R. 1998 No. 412

“essential services” means the services described in regulation 15(3), (5), (6) and (8) of the 2004 Regulations;

“general medical services contract” means a contract under Article 57 of the 1972 Order and general medical services contractor shall, except in Part 3, where it has the meaning given in Article 41(3), be construed accordingly.

“list of patients” means –

- (a) in relation to a person providing general medical services under Article 56 of the 1972 Order^(a), the list of patients of a medical practitioner prepared by the Agency under regulation 18 of the 1997 Regulations; and
- (b) in relation to a general medical services contractor or a default contractor, the list prepared and maintained by the Board under the term of a general medical services contract which gives effect to paragraph 14 of Schedule 5 to the 2004 Regulations or under the equivalent term of a default contract;

“Local Medical Committee” means –

- (a) until 1st April 2004, a committee recognised under Article 55 of the 1972 Order^(b);
- (b) from that date, a committee recognised under Article 55B of that Order^(c);

“medical list” means a list prepared by a Board under regulation 4 (medical list) of the 1997 Regulations;

“the No. 1 Order” means the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004^(d);

“out of hours period” has the same meaning as in regulation 2(1) of the 2004 Regulations;

“practice premises”, in relation to a person providing general medical services under Article 56 of the 1972 Order has the same meaning as in regulation 2 of the 1997 Regulations and, in relation to a general medical services contractor or a default contractor, has the same meaning as in regulation 2(1) of the 2004 Regulations;

“primary medical services performers list” means the list of primary medical services performers prepared pursuant to regulation 4(1) of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004^(e);

“registered patient” means –

- (a) a person who is recorded by the Board as being on the list of patients of a default contractor or a general medical services contractor, or
- (b) a person whom a default contractor or a general medical services contractor has accepted for inclusion on his list of patients, whether or not notification of that acceptance has been received by the Board and who has not been notified by the Board as having ceased to be on that list;

“temporary resident” means a person accepted by a general medical services contractor or a default contractor as a temporary resident under the term of his contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations (or under the equivalent term of his default contract) and for whom the contractor’s responsibility has not been terminated in accordance with the terms of the general medical services contract or default contract.

(a) Article 56 was amended by S.I. 1991/194 (N.I. 1) and S.I. 1997/1177 (N.I. 7) and from 1st April 2004 is substituted by Article 3 of S.I. 2004/311 (N.I. 12)

(b) Article 55 was replaced by section 42 of the Health and Personal Social Services (Northern Ireland) Order 2001 and was repealed in relation to Local Medical Committees by paragraph 7 of Schedule 1 to the 2004 Order

(c) Article 55B was inserted into the 1972 Order by paragraph 9 of Schedule 1 to the 2004 Order

(d) S.R. 2004 No. 141

(e) S.R. 2004 No. 149

PART 2
TRANSITIONAL PROVISIONS RELATING TO GENERAL
MEDICAL SERVICES

Application and interpretation of this Part

2.—(1) In this Part –

- (a) Articles 3 to 29 apply to a default contract or a general medical services contract entered into on or before 31st March 2004 with –
 - (i) an individual medical practitioner who has entered into the general medical services contract pursuant to an entitlement under Article 3 of the No. 1 Order or the default contract pursuant to Article 13 of that Order,
 - (ii) two or more individuals practising in partnership who have entered into the general medical services contract pursuant to an entitlement under Article 5 of that Order or the default contract pursuant to Article 13 of that Order, or
 - (iii) a company in which one or more of the legal and beneficial shareholders is, or are, on the date on which the general medical services contract is signed, providing general medical services under Article 56 of the 1972 Order;
- (b) Articles 30 and 31 apply to the contracts specified in sub-paragraph (a) and to a general medical services contract which takes effect immediately after a default contract with the same parties ceases to have effect; and
- (c) Article 32 applies to all general medical services contracts and default contracts entered into before 1st April 2005.

(2) Unless it is entered into with a person to whom the particular Article does not apply, a general medical services contract or a default contract which falls within paragraph (1) shall include, or be deemed to include, terms which have the effect specified in Articles 3 to 32.

(3) In this Part –

“relevant medical practitioner” means a medical practitioner who –

- (a) on 31st March 2004, or on the date on which a default contract or a general medical services contract is entered into, if earlier, is providing general medical services under Article 56 of the 1972 Order; and
- (b) on or before 31st March 2004 –
 - (i) has entered into a default contract or a general medical services contract as an individual medical practitioner or as one of two or more individuals practising in partnership; or
 - (ii) is a legal and beneficial shareholder in a company which has entered into a general medical services contract;

“succeeding contractor” means the default contractor who is a party to the default contract or the general medical services contractor which is a party to the general medical services contract which –

- (a) a relevant medical practitioner has entered into either as an individual medical practitioner or as one of two or more individuals practising in partnership; or
- (b) has been entered into by a company in which a relevant medical practitioner is a legal and beneficial shareholder.

Applications for inclusion in lists of patients

3. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for inclusion in his list of patients pursuant to regulation 2 or 3(1) of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall, on 1st April 2004, be regarded as if it had been made to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 15 of Schedule 5 to the 2004 Regulations; or

- (b) the equivalent term of his default contract.

Acceptance of applications for inclusion in lists of patients

4.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had agreed to accept a person on his list of patients pursuant to paragraph 5 of Schedule 2 to the 1997 Regulations(a) but on 31st March 2004 he had not yet sent the signed medical card or the application to the Agency in accordance with sub-paragraph (3) of that paragraph, that acceptance shall be regarded on 1st April 2004 as an acceptance by the succeeding contractor and notification of that acceptance shall be sent by the succeeding contractor to the Board in accordance with –

- (a) the term of his general medical services contract which gives effect to paragraph 15(5) of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(2) In paragraph (1), “medical card” has the same meaning as in regulation 2(1) of the 2004 Regulations.

Removal from the list of patients at the request of the patient

5. Where, on or before 31st March 2004, the Agency had received notice from a patient under regulation 22(1)(a) of the 1997 Regulations that he wished to be removed from a relevant medical practitioner’s list of patients but on 31st March 2004 that removal had not yet taken effect in accordance with regulation 22(1)(b) of those Regulations, the removal shall take effect as a removal from the list of patients of the succeeding contractor as if it were a removal pursuant to a request received by the Board in accordance with –

- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 19 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of 14 days in the term which gives effect to paragraph 19(3)(b) shall be read as a reference to the period of 14 days after the date on which the request made under regulation 22(1)(a) of the 1997 Regulations was received by the Agency; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

Removal from the list of patients at the request of the relevant medical practitioner

6.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Agency that he wished to have a patient removed from his list of patients in accordance with paragraph 9 of Schedule 2 to the 1997 Regulations(b) but that removal had, on 31st March 2004, not yet taken effect, paragraph (2) shall apply.

(2) Except where paragraph (3) applies, the removal shall take effect as a removal from the list of patients of the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 20(8) of Schedule 5 to the 2004 Regulations, subject to the modification that the reference in that term to the eighth day after the Board receives the notice shall be read as a reference to the eighth day after the Agency received the notice sent under paragraph 9 of Schedule 2 to the 1997 Regulations; or
- (b) the equivalent term of his default contract, subject to a modification to the same effect.

(3) Where, on or before 31st March 2004, the Agency had been –

- (a) informed by the relevant medical practitioner under paragraph 9(2) of Schedule 2 to the 1997 Regulations that he was treating the patient at intervals of less than seven days but had not yet been notified by him that the patient no longer needed such treatment; or
- (b) notified by the relevant medical practitioner under that paragraph that the person no longer needed treatment at intervals of less than seven days,

(a) Paragraph 5 was amended by S.R. 1999 No. 100
(b) Paragraph 9 was amended by S.R. 1999 No. 100

paragraph (4) shall apply.

(4) In a case which falls within paragraph (3), the removal shall take effect as a removal from the list of patients of the succeeding contractor on –

- (a) the date on which the Board receives notification of the registration of the person with another provider of essential services (or their equivalent);
- (b) the eighth day after the Agency received notice from the relevant medical practitioner that the person no longer needed treatment at intervals of less than seven days; or
- (c) the eighth day after the Board receives notice from the succeeding contractor that the patient no longer needs treatment at intervals of less than seven days,

whichever is the sooner.

Removals from the list of patients who are violent

7.—(1) This Article applies where, on or before 31st March 2004, a person had been removed from a relevant medical practitioner's list of patients with immediate effect pursuant to paragraph 10 of Schedule 2 to the 1997 Regulations but –

- (a) confirmation in writing had not yet been given to the Agency under paragraph 10(2);
- (b) reasonable steps had not yet been taken by the relevant medical practitioner under paragraph 10(4) to inform the person whose name had been removed; or
- (c) written notice of the removal had not yet been given to the person by the Agency under regulation 18(8)(b) of the 1997 Regulations^(a).

(2) In a case to which paragraph (1)(a) applies written confirmation of the request for removal shall be given to the Board by the succeeding contractor within 7 days from the date on which notification was given under paragraph 10.

(3) In a case to which paragraph (1)(b) applies, reasonable steps shall be taken by the succeeding contractor to inform the patient of the request for removal.

(4) In a case to which paragraph (1)(c) applies, the Board shall send written notice of the removal to the patient.

Removals from the list of patients who have moved

8.—(1) Where, on or before 31st March 2004, the Agency had informed a patient and a relevant medical practitioner, in accordance with regulation 22(2) of the 1997 Regulations, that the medical practitioner was no longer obliged to visit and treat him but the 30 days referred to in that regulation had not yet expired, that information shall be regarded as if it had been given under –

- (a) the term of the succeeding contractor's general medical services contract which gives effect to paragraph 23 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of 30 days in the term which gives effect to paragraph 23(1)(c) shall be read as a reference to 30 days from the date of the information given by the Agency under regulation 22(2) of the 1997 Regulations; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

(2) Where, on or before 31st March 2004, the Agency had given a relevant medical practitioner notice in writing, in accordance with regulation 22(4) of the 1997 Regulations, that it intended to remove a person from the practitioner's list of patients but the six months referred to in that regulation had not yet expired, that notice shall be regarded as if it had been given to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 24 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of six months in the term which gives effect to paragraph 24(a) shall be read as a reference to six months from the date of the notice given by the Agency under regulation 22(4) of the 1997 Regulations; or

(a) Regulation 18(8)(b) was amended by S.R. 1999 No. 100

- (b) the equivalent term of his default contract subject to a modification to the same effect.

Removals not reflected in the list of patients on 31st March 2004

9.—(1) This Article applies where –

- (a) on or before 31st March 2004, the removal of a patient from a relevant medical practitioner’s list of patients had taken effect under the 1997 Regulations; and
- (b) the Agency had not, on 31st March 2004, reflected that removal in the list of patients of that medical practitioner which it maintained under regulation 18 of the 1997 Regulations.

(2) In a case to which this Article applies, the Board shall –

- (a) remove the patient from the succeeding contractor’s list of patients as soon as reasonably practicable after 1st April 2004; and
- (b) if notification of the removal was required to be given to the medical practitioner or the patient under the provision of the 1997 Regulations relevant to the removal and had not been given on or before 31st March 2004, notify the succeeding contractor and the patient of the removal.

Applications for acceptance as a temporary resident

10. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for acceptance as a temporary resident under regulation 6 of the Choice Regulations but on 31st March 2004 that application had not yet been determined, the application shall be regarded as if it had been made to the succeeding contractor and shall be dealt with in accordance with –

- (a) the term of his general medical services contract which gives effect to paragraphs 16 and 17 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent terms of his default contract.

Acceptance of temporary residents

11.—(1) This Article applies where –

- (a) on or before 31st March 2004, a relevant medical practitioner had accepted a person as a temporary resident under paragraph 6(b) of Schedule 2 to the 1997 Regulations^(a); and
- (b) on 31st March 2004, his responsibility for that patient had not yet been terminated under paragraphs 9 and 11 of that Schedule^(b) or the period for which the person was accepted as a temporary resident had not yet come to an end.

(2) In a case to which this Article applies, the person shall, on 1st April 2004, be treated as if he had been accepted as a temporary resident by the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations, subject to the modification that reference to a period of three months in that term shall be read as a reference to a period of three months starting with and including the date on which the person was accepted as a temporary resident by the relevant medical practitioner under paragraph 6 of Schedule 2 to the 1997 Regulations; or
- (b) the equivalent term of his default contract subject to a modification to the same effect.

Termination of responsibility for temporary residents

12. Where, on or before 31st March 2004, a relevant medical practitioner had informed the Agency in writing in accordance with paragraph 11 of Schedule 2 to the 1997 Regulations that he wished to terminate his responsibility for a temporary resident but, on 31st March 2004, that

(a) Paragraph 6 was amended by S.R. 1999 No. 100
(b) Paragraph 9 was amended by S.R. 1999 No. 100

responsibility had not yet terminated under paragraph 11 of that Schedule, the responsibility of the succeeding contractor for that temporary resident shall terminate seven days after the date on which the information under paragraph 11 of Schedule 2 to the 1997 Regulations was given to the Agency by the relevant medical practitioner.

Provision of immediately necessary treatment

13. Where, on 31st March 2004, a relevant medical practitioner was responsible for providing immediately necessary treatment to any person under paragraph 3(4) of Schedule 2 to the 1997 Regulations^(a), the succeeding contractor shall continue to be responsible for providing such treatment to that person for the period for which the relevant medical practitioner would have been responsible if that paragraph had not been revoked.

Newly registered patients

14.—(1) This Article applies where, on 31st March 2004, a patient specified in paragraph (2) –

- (a) was entitled to be invited to participate in a consultation under paragraph 16(1) of Schedule 2 to the 1997 Regulations^(b); and
- (b) had not been given such an invitation.

(2) The patient referred to in paragraph (1) is a patient –

- (a) who, on or before 31st March 2004 –
 - (i) had applied for inclusion in a relevant medical practitioner’s list of patients under regulation 2 or 3 of the Choice Regulations and whose application had been accepted, or
 - (ii) had been assigned to a relevant medical practitioner’s list under regulation 4 of the Choice Regulations; and
- (b) in respect of whom a Board had not granted deferment of the obligation to invite him to participate in a consultation under paragraph 16 of Schedule 2 to the 1997 Regulations.

(3) A patient to whom this Article applies shall, on 1st April 2004, be regarded as a patient who falls within –

- (a) the term of the succeeding contractor’s general medical services contract which gives effect to paragraph 4 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

Appointments system

15. Where, on or before 31st March 2004, a relevant medical practitioner had notified a Board under paragraph 34 of Schedule 2 to the 1997 Regulations –

- (a) that he intended to operate an appointments system; or
- (b) of any proposal to discontinue such a system,

that notice shall be regarded as a notice given by the succeeding contractor to the Board for the purposes of the term of the general medical services contract which gives effect to paragraph 76(c) of Schedule 5 to the 2004 Regulations or the equivalent term of the default contract.

Qualifications of performers

16.—(1) Where, on 1st April 2004, a succeeding contractor continues to employ or engage a person who on 31st March 2004 was employed or engaged in accordance with the requirements of Schedule 2 to the 1997 Regulations by the relevant medical practitioner in relation to whom he is a succeeding contractor, paragraphs (2) and (3) shall apply.

(a) Paragraph 3(4) was amended by S.R. 1999 No. 100
(b) Paragraph 16 was amended by S.R. 1999 No. 100

(2) The requirements to make checks contained in the terms of the general medical services contract which give effect to paragraphs 52(1)(b) and 53(1) of Schedule 5 to the 2004 Regulations, or in the equivalent terms of the default contract –

- (a) in a case where equivalent checks have previously been carried out in respect of that person by the relevant medical practitioner, shall not apply; or
- (b) in any other case, shall apply subject to the modification that the checks may be carried out at any time up to 30th June 2004.

(3) The requirement to obtain references in the term of the general medical services contract which gives effect to paragraph 54 of Schedule 5 to the 2004 Regulations, or in the equivalent term of the default contract, shall not apply if such references have been obtained, checked and found to be satisfactory by the relevant medical practitioner by whom the health care professional was employed or engaged on 31st March 2004.

Independent nurse prescribers and supplementary prescribers

17.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Board of any matters relating to an independent nurse prescriber or a supplementary prescriber under paragraph 35A or paragraph 35B of Schedule 2 to the 1997 Regulations(a), the succeeding contractor shall not be required to notify the Board of those same matters under –

- (a) the term of his general medical services contract which gives effect to paragraph 60 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(2) In paragraph (1) “independent nurse prescriber” and “supplementary prescriber” have the same meaning as in paragraph 1 of Schedule 2 to the 1997 Regulations(b).

Patient records

18.—(1) Where –

- (a) on or before 31st March 2004, a Board or the Agency had requested a relevant medical practitioner to send it the records relating to a patient under paragraph 41 of Schedule 2 to the 1997 Regulations; and
- (b) on 31st March 2004 that request had not yet been complied with,

the records requested shall be sent by the succeeding contractor to the Board as soon as possible.

(2) Where, on or before 31st March 2004, a relevant medical practitioner had been informed of the death of a patient on his list by the Agency or had otherwise learned of the death of such a patient but on 31st March 2004 had not yet sent that patient’s records to the Agency in accordance with paragraph 41(e) of Schedule 2 to the 1997 Regulations, those records shall be sent to the Board by the succeeding contractor –

- (a) in a case in which the relevant medical practitioner was informed of the death by the Agency, within 14 days of the date on which he was so informed; or
- (b) in any other case, within one month of the date on which the relevant medical practitioner learned of the death.

Rights of entry

19.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a written request for inspection of his practice premises under paragraph 33(b) of Schedule 2 to the 1997 Regulations but, on 31st March 2004, no inspection had yet taken place pursuant to that request, the request shall, on 1st April 2004, be regarded as notice of an intended entry to the succeeding contractor under –

- (a) the term of his general medical services contract which gives effect to paragraph 83 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

(a) Paragraph 35A was inserted by S.R. 2001 No. 167 and paragraph 35B was inserted by S.R. 2003 No. 447

(b) These definitions were inserted into paragraph 1 by S.R. 2003 No. 447

(2) In determining whether reasonable notice was given of any entry to the practice premises following a notice referred to in paragraph (1), regard shall be had to the date on which the request under paragraph 33(b) of Schedule 2 to the 1997 Regulations was made.

Refusal of approval of premises under paragraphs 37 and 37A of Schedule 2 to the 1997 Regulations

20.—(1) Where, on or before 31st March 2004, a Board had notified a relevant medical practitioner under paragraph 36(12) of Schedule 2 to the 1997 Regulations of its refusal of an application made under –

- (a) paragraphs 36(1) or (17) of that Schedule in relation to any place at which he was to be available; or
- (b) paragraphs 37(1) or (6) of that Schedule in relation to the treatment of patients other than at his practice premises,

paragraphs (2) and (3) shall apply.

(2) Where, on 31st March 2004, the time for appealing against the refusal specified in paragraph 36(13) of Schedule 2 to the 1997 Regulations had not expired and no appeal had yet been made, the time for appealing shall continue as if paragraph 36 and, if applicable, paragraph 37 of that Schedule had not been revoked.

(3) Where –

- (a) on 31st March 2004, the relevant medical practitioner had appealed in writing against that refusal under paragraph 36(13) of Schedule 2 to the 1997 Regulations but the appeal had not been determined or withdrawn; or
- (b) after 31st March 2004, an appeal is made pursuant to paragraph (2),

that appeal shall be dealt with, or continue to be dealt with, as if paragraph 36 and, if applicable, paragraph 37 of that Schedule had not been revoked.

(4) Where an appeal dealt with under paragraph (3) is successful, the Board shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

(5) A variation agreed by the Board pursuant to paragraph (4) shall have effect –

- (a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and
- (b) only if it is in writing and signed by or on behalf of the Board and the succeeding contractor.

Withdrawal of approval of premises under paragraph 37 of Schedule 2 to the 1997 Regulations

21.—(1) Where –

- (a) on or before 31st March 2004, a Board had notified a relevant medical practitioner of withdrawal of its approval of premises under paragraph 37(10) of Schedule 2 to the 1997 Regulations; and
- (b) on 31st March 2004, the time for appealing specified in sub-paragraph (11) of that paragraph had not expired and no appeal had yet been made,

the time for appealing shall continue as if paragraph 37 of Schedule 2 to the 1997 Regulations had not been revoked.

(2) Where –

- (a) on or before 31st March 2004, the relevant medical practitioner had appealed in writing against a withdrawal of approval under paragraph 37(11) of Schedule 2 to the 1997 Regulations but the appeal had not been determined or withdrawn; or
- (b) after 31st March 2004, an appeal is made pursuant to paragraph (1),

that appeal shall be dealt with or continue to be dealt with as if paragraph 36 and, if applicable, paragraph 37 of Schedule 2 to the 1997 Regulations were still in operation.

(3) Where an appeal dealt with under paragraph (2) is successful, the Board shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

- (4) A variation agreed by the Board pursuant to paragraph (3) shall have effect –
- (a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and
 - (b) only if it is in writing and signed by or on behalf of the Board and the succeeding contractor.

Investigation of outstanding complaints

22.—(1) Where, on 31st March 2004 –

- (a) a complaint had been made under paragraph 52 of Schedule 2 to the 1997 Regulations by or on behalf of a patient or former patient of a relevant medical practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 52 had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 52 had not been revoked.

(2) Where, on 31st March 2004 –

- (a) a complaint had been made under paragraph 52 of Schedule 2 to the 1997 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 52 had not concluded,

that complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 52 had not been revoked.

(3) The persons referred to in paragraph (2) are –

- (a) the person who was the former partner of the medical practitioner on whose list of patients the complainant was included, if he meets the requirements in paragraph (4);
- (b) if the person specified in paragraph (a) satisfies the Board on whose medical list his former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him, that Board; or
- (c) in any other case, the Board on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.

(4) The requirements referred to in paragraph (3) are that the former partner –

- (a) has or have entered into a default contract or a general medical services contract, as an individual medical practitioner or as one of two or more individuals practising in partnership, with the Board on whose medical list his former partner was included for the purposes of providing general medical services to the complainant; or
- (b) is a legal and beneficial shareholder in a company which has entered into a general medical services contract with that Board.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall –

- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
- (b) if they are unable to reach agreement, refer the matter to the Board on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Board shall investigate the complaint itself.

Complaints relating to general medical services made after 31st March 2004

- 23.** The complaints procedure established and operated by a succeeding contractor under –
- (a) the term of his general medical services contract which gives effect to paragraph 84 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of the default contract,

shall apply to any complaint which a patient or former patient of the relevant medical practitioner to whom he is a succeeding contractor could have made (but did not make) on or before 31st March 2004 under paragraph 52 of Schedule 2 to the 1997 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract.

Reports to a medical officer

24.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a request for information or an inquiry from a medical officer (or an officer of the Department for Social Development on its behalf or at its direction) under paragraph 54 of Schedule 2 to the 1997 Regulations but, on 31st March 2004, he had not yet responded to that request or inquiry, the succeeding contractor shall respond as if the request or inquiry had been made under –

- (a) the term of his general medical services contract which gives effect to paragraph 74 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of his default contract.
- (2) In this Article, “medical officer” means a medical practitioner who is –
- (a) employed or engaged by the Department for Social Development; or
 - (b) provided by an organisation in pursuance of a contract entered into with the Department for Social Development.

Inquiries about prescriptions and referrals

25. Where, on or before 31st March 2004, a relevant medical practitioner had received an inquiry about prescriptions or referrals from a Board under paragraph 55 of Schedule 2 to the 1997 Regulations but had not yet responded to that inquiry, the succeeding contractor shall respond as if the inquiry had been made under –

- (a) the term of his general medical services contract which gives effect to paragraph 73 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of his default contract.

Arrangements with organisations providing deputy doctors

- 26.**—(1) Where –
- (a) on 31st March 2004 –
 - (i) a Board had, on or before that date, issued a remedial notice to a relevant medical practitioner under paragraph 26(7) of Schedule 2 to the 1997 Regulations^(a); and
 - (ii) the date specified in the notice as the one before which remedial action should be taken had not yet been reached; and
 - (b) on 1st April 2004, the arrangements covered by the remedial notice are continuing in the form of a sub-contract with the succeeding contractor,

the remedial notice issued under paragraph 26(7) of Schedule 2 to the 1997 Regulations shall be regarded as a remedial notice served in the same terms on the succeeding contractor on 1st April 2004 under the term of his general medical services contract which gives effect to paragraph 107(1) of Schedule 5 to the 2004 Regulations (or under the equivalent term of his default contract).

(a) Paragraph 26 was amended by S.R. 1998 No. 9 and S.R. 1999 No. 100

(2) A remedial notice deemed to have been served on the succeeding contractor pursuant to paragraph (1) shall not count as a remedial notice for the purposes of the term of the general medical services contract which gives effect to paragraph 107(6) of Schedule 5 to the 2004 Regulations (or for the purposes of the equivalent term of the default contract).

(3) In this Article, “remedial notice” means, in relation to a notice issued before 1st April 2004, a notice issued under paragraph 26(7) of Schedule 2 to the 1997 Regulations and, in relation to a notice issued after that date, a notice served under the term of the contract which gives effect to paragraph 107(1) of Schedule 5 to the 2004 Regulations or (under the equivalent term of the default contract).

Notification of sub-contracts under general medical services contracts

27.—(1) Where –

(a) on 31st March 2004, a relevant medical practitioner had in place –

- (i) arrangements for the engagement of a deputy of which he had informed the Board under paragraph 25(1) of Schedule 2 to the 1997 Regulations, or
- (ii) arrangements he had made with an organisation providing deputy doctors of which he had notified the Board under paragraph 26(3) of that Schedule and in relation to which the Board had not served a notice under paragraph 26(10) of that Schedule; and

(b) the succeeding general medical services contractor wishes to continue those arrangements after 31st March 2004 in the form of a sub-contract to which paragraph 64 of Schedule 5 to the 2004 Regulations applies,

any requirement for the succeeding contractor to notify the Board of his intention to enter into that sub-contract contained in the term of his general medical services contract which gives effect to paragraph 64(1)(b) of Schedule 5 to the 2004 Regulations shall not apply, unless the date of termination of the arrangements is extended beyond the date which applied to them on 31st March 2004 or there is a material variation in the nature of those arrangements.

(2) In this Article –

“deputy” has the meaning given in paragraph 1 of Schedule 2 to the 1997 Regulations; and
“organisation providing deputy doctors” has the same meaning as in paragraph 26(1) of that Schedule.

Practice leaflet

28.—(1) This Article applies where a relevant medical practitioner had compiled a practice leaflet which met the requirements of paragraph 51 of Schedule 2 to the 1997 Regulations and that leaflet was, on 31st March 2004, available to patients on his list.

(2) In the circumstances to which this Article applies, the practice leaflet made available to patients by –

- (a) the succeeding contractor; or
- (b) a general medical services contractor who enters into a general medical services contract before 31st July 2004 which takes effect immediately after his default contract with the same Board ceases to have effect,

need not, until 1st August 2004, include all the information specified in the term of the general medical services contract which gives effect to Schedule 7 to the 2004 Regulations (or in the equivalent term of the default contract) provided that, from the date of commencement of the contract until the practice leaflet does so comply, the general medical services contractor or the default contractor makes available to patients in written form the information specified in paragraph (3).

(3) The information referred to in paragraph (2) is –

- (a) the services available under the general medical services contract or the default contract;
- (b) the opening hours of the practice premises and the method of obtaining access to services throughout the core hours;

- (c) the arrangements for services in the out of hours period (whether or not provided by the general medical services contractor or the default contractor) and how the patient may contact such services; and
 - (d) if the services in sub-paragraph (c) are not provided by the general medical services contractor or the default contractor, the fact that the Board which is a party to the general medical services contract or the default contract is responsible for commissioning the services and the name, address and telephone number of that Board.
- (4) In this Article, “practice leaflet” –
- (a) in relation to the period before 1st April 2004, has the meaning given in paragraph 51 of Schedule 2 to the 1997 Regulations; and
 - (b) in relation to the period from 1st April 2004 has the meaning given in regulation 2(1) of the 2004 Regulations.

Medical examination of medical practitioners

- 29.** Where, on or before 31st March 2004 –
- (a) a Board had required a relevant medical practitioner to be medically examined under regulation 24(5) of the 1997 Regulations; and
 - (b) that medical examination had not yet taken place,

the requirement shall, on 1st April 2004, unless the Board notifies him otherwise in writing, be regarded as a request made to that medical practitioner for him to be medically examined on the grounds that he is incapable of adequately providing services under the succeeding contract and arrangements for the medical examination shall, with the consent of the medical practitioner, continue to be made by the Local Medical Committee for the area of the Board which is a party to the succeeding contract, pursuant to the function conferred on that committee by regulation 27 of the 2004 Regulations.

Patients not seen within three years

- 30.** The term of a general medical services contract which gives effect to paragraph 5 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to a consultation or clinic provided by the general medical services contractor (or the default contractor) included a reference to a consultation or clinic provided by –
- (a) the relevant medical practitioner in relation to whom he is a succeeding contractor; or
 - (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, the contractor who held that default contract.

Patients aged 75 years and over

- 31.** The term of a general medical services contract which gives effect to paragraph 6 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to participating in a consultation under that term included a reference to participating in a consultation under –
- (a) paragraph 18 of Schedule 2 to the 1997 Regulations; or
 - (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, under the term of the default contract which was equivalent to paragraph 6 of Schedule 5 to the 2004 Regulations.

Arrangements for GP Registrars

- 32.—(1)** Where, before 1st April 2005, a general medical services contractor or a default contractor employs a GP Registrar for the purpose of being trained by a GP Trainer, the requirement for the general medical services contractor or the default contractor to have the agreement of the Department to that employment in –

- (a) the term of the general medical services contract which gives effect to paragraph 59 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of the default contract,

shall not apply.

(2) In this Article, “GP Registrar” and “GP Trainer” have the same meaning as in regulation 2(1) of the 2004 Regulations.

Refund of fees paid under paragraph 43(e) of Schedule 2 to the 1997 Regulations

33. Where, on 31st March 2004, a patient had paid a fee to a medical practitioner under paragraph 43(e) of Schedule 2 to the 1997 Regulations but –

- (a) the period for applying for a refund of that fee under paragraph 44(1) of that Schedule had not yet expired; or
- (b) an application for refund of the fee had been made but not yet determined,

the period for applying for a refund and the powers of the Board in dealing with any application for a refund shall continue as if paragraph 44(1) of that Schedule had not been revoked.

Annual reports

34. Notwithstanding the revocation of the 1997 Regulations, any medical practitioner to whom paragraph 56 of Schedule 2 to those Regulations (annual reports) applied shall, by 30th June 2004, provide, either individually or as a member of a partnership, to the Board on whose medical list he appeared on 31st March 2004, an annual report in respect of the period of 12 months ending on 31st March 2004 which includes –

- (a) the number of complaints received in accordance with paragraph 52 of Schedule 2 to the 1997 Regulations; and
- (b) if the Board, having considered whether the information is available to it from another source and having consulted the Local Medical Committee, so requests, the information specified in paragraph 3 of Schedule 13 to those Regulations.

Determination of question whether a substance is a drug

35.—(1) Where, on 31st March 2004, a Board had, under regulation 40(7) of the 1997 Regulations, informed a medical practitioner of its decision that a substance ordered by him was not a drug but –

- (a) the medical practitioner had not given notice of appeal under paragraph (8) of that regulation; and
- (b) the time for appealing in that paragraph had not yet expired,

the time for appealing shall continue as if regulation 40 of the 1997 Regulations were still in operation.

(2) Where –

- (a) on 31st March 2004, a medical practitioner had given notice of appeal against a decision of a Board under regulation 40 of the 1997 Regulations but that appeal had not been determined or withdrawn; or
- (b) a medical practitioner has given notice of such an appeal after 31st March 2004, pursuant to paragraph (1),

that appeal shall continue to be dealt with as if regulation 40 of the 1997 Regulations were still in operation.

Entry on to primary medical services performers list of persons whose application has been granted under regulation 12 of the 1997 Regulations

36. Where a Board –

- (a) had, on 31st March 2004, granted the application of a medical practitioner under regulation 12 of the 1997 Regulations^(a) but had not yet entered his name on its medical list in accordance with regulation 12(2) of those Regulations; and
- (b) intends to enter into a default contract or general medical services contract with two or more individuals practising in partnership one of whom is the person so approved,

it shall add that person's name to its primary medical services performers list.

Outstanding appeals against refusal of an application under regulations 9, 10, or 11 of the 1997 Regulations

37.—(1) Where, on 31st March 2004 –

- (a) a Board had refused an application from a medical practitioner under regulation 9,10 or 11 of the 1997 Regulations; and
- (b) he had a right of appeal under regulation 15 of the 1997 Regulations and the time for appealing had not yet expired,

the time for appealing shall continue as if that regulation had not been revoked.

(2) Where a medical practitioner whose application to a Board had not been granted under regulation 12 of the 1997 Regulations –

- (a) had, on or before 31st March 2004, given notice of appeal to the Department under regulation 15 of the 1997 Regulations but that appeal had not yet been determined or withdrawn; or
- (b) has given notice of such an appeal after 31st March 2004 pursuant to paragraph (1),

that appeal shall continue to be dealt with as if regulation 15 of the 1997 Regulations had not been revoked.

(3) Where –

- (a) following an appeal dealt with under paragraph (2), the Department determines that the application of the medical practitioner should have been approved by the Board; and
- (b) a default contractor or a general medical services contractor notifies the Board that the person concerned is to join him as a partner,

the Board shall add that person's name to its primary medical services performers list.

Permission for use of facilities in private practice under Article 5 of the 1972 Order

38. Where, on 31st March 2004, a relevant medical practitioner had the permission of the Department under Article 5 of the 1972 Order (provision of accommodation and medical services etc.), that permission shall be regarded, from 1st April 2004, as permission granted under that Article to the succeeding contractor.

Recovery of overpayments

39.—(1) Where, on or before 31st March 2004, a medical practitioner had admitted an overpayment drawn to his attention by a Board or the Agency under regulation 39(2) of the 1997 Regulations^(b) (claims and overpayments) but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31st March 2004, shall, notwithstanding the repeal of the 1997 Regulations, continue to be recoverable by that Board and shall be treated as a debt owed by that medical practitioner to that Board.

(2) Notwithstanding the repeal of the 1997 Regulations, where a Board or the Agency considers that a payment has been made to a medical practitioner under the Statement of Fees and Allowances when it was not due and has not drawn that alleged overpayment to the attention of the medical practitioner on or before 31st March 2004, the Board may draw that overpayment to the attention of the medical practitioner and –

(a) Regulation 12 was amended by S.R. 1999 No. 100
(b) Regulation 39(2) was amended by S.R. 1998 No. 9

- (a) where the overpayment is admitted by him, the Board may recover the amount overpaid from him as a civil debt; and
- (b) where the overpayment is not admitted by him, the arrangements for appeals set out in paragraph 80 of the Statement of Fees and Allowances shall apply.

(3) In this Article, “Statement of Fees and Allowances” means the statement determined and published by the Department under regulation 37 of the 1997 Regulations^(a), as that statement had effect on 31st March 2004.

Continuation of pre-contract disputes relating to general medical services contracts

40.—(1) Where, on or before 31st March 2004 –

- (a) a prospective party to a general medical services contract had referred a pre-contract dispute to the Department to consider and determine under Article 8(4) of the 1991 Order or under regulation 9 of the 2004 Regulations; and
- (b) that party entered into the general medical services contract whose terms were subject to dispute before that dispute had been determined or withdrawn,

the dispute shall, notwithstanding that the parties to the dispute have entered into a general medical services contract, continue to be dealt with under the procedure specified in regulation 9(2) of the 2004 Regulations.

- (2) In the case of a dispute dealt with pursuant to paragraph (1), the determination –
 - (a) may require the parties to agree an amendment or variation to the general medical services contract; and
 - (b) shall be binding upon the parties to that contract.

PART 3

TRANSITIONAL PROVISIONS FOR GENERAL MEDICAL SERVICES CONTRACTS WHICH FOLLOW DEFAULT CONTRACTS

Application and interpretation of this Part

41.—(1) This Part applies where a person who holds a default contract with a Board enters into a general medical services contract with that Board which takes effect immediately after his default contract ceases to have effect.

(2) In a case to which this Part applies, the general medical services contract shall, unless it is entered into with a person to whom the particular Article does not apply, include, or be deemed to include, terms which have the effect specified in Articles 42 to 52.

(3) In this Part –

“default contractor” means a person who holds a default contract with a Board and who has entered into a general medical services contract with that Board which takes effect immediately after the default contract ceases to have effect;

“general medical services contractor” means the person who holds the general medical services contract entered into by the default contractor.

Carry over of approvals, applications, notices etc.

42.—(1) Subject to paragraph (3), in a case to which this Part applies –

- (a) any approval, authorisation or consent given by the Board for the purposes of the default contract and still in force on the date on which that default contract ceases to have effect, shall be deemed to be an approval, authorisation or consent for the purposes of the

^(a) Regulation 37 was amended by S.R. 1998 No. 9

- general medical services contract on the date on which that general medical services contract takes effect and any such approval, authorisation or consent shall be on the same terms and subject to the same conditions (if any) as applied to the approval, authorisation or consent given under the default contract;
- (b) any application made to the Board by the default contractor under his default contract, and which has not been dealt with or determined on or before the date on which the default contract ceases to have effect, shall be deemed to be an application made by the general medical services contractor under his general medical services contract and any time specified in the general medical services contract for dealing with any such application shall be deemed to run from the date on which the application was made under the default contract;
 - (c) any application or request made by a patient to the default contractor under his default contract and which has not been dealt with or determined on or before the date on which the default contract ceases to have effect, shall be deemed to be an application or request made by the patient to the general medical services contractor under his general medical services contract and any time specified in the general medical services contract in relation to that application or request shall be deemed to run from the date on which the application or request was made under the default contract;
 - (d) any notice given to or served on the default contractor under his default contract by the Board which –
 - (i) requires him to provide or cease providing services, or
 - (ii) withdraws, suspends or varies an approval previously given to him by the Board, from a date which is after the date on which the default contract ceases to have effect, shall be deemed to be a notice served on the general medical services contractor under his general medical services contract which takes effect on the date on which it would have taken effect had the default contract continued in force and any time specified in the general medical services contract for referring the matter to the dispute resolution procedure shall be deemed to run from the date on which the notice was given to or served on the default contractor;
 - (e) subject to paragraph (2), any notification or information given to the Board or a patient by the default contractor under his default contract shall be deemed to be a notification or information given by the general medical services contractor under the equivalent term of his general medical services contract on the date on which the general medical services contract takes effect and any reference in the relevant term of the general medical services contract to the date on which the event referred to in the notification shall take effect shall be read as a reference to the date on which that event would have taken effect had the default contract remained in force;
 - (f) any report, notification or information (other than a notification required to be given under the term of the default contract equivalent to paragraph 80 of Schedule 5 to the 2004 Regulations) which, on the date on which the default contract ceased to have effect, was required to be given to any person by the default contractor under his default contract but had not been so given, shall be given by the general medical services contractor as if it was required to be given under the general medical services contract, subject to the modification that the timescale for giving any such report, notification or information shall be that which would have applied to the default contractor had the default contract remained in force;
 - (g) any notifications or acknowledgements required to be given by the Board to a default contractor under his default contract on the date on which it ceases to have effect but which had not been so given shall be given by the Board to the general medical services contractor as if it is was required under the terms of the general medical services contract;
 - (h) any notifications required to be given by the Board under a default contract to a patient on the default contractor's list of patients on the date on which the default contract ceases to have effect but which had not been so given, shall be given to that patient by the Board –

- (i) if the patient is included in the list of patients of the general medical services contractor, as if the notification were required to be given under the general medical services contract, or
- (ii) in any other case, as soon as possible after the default contract ceases to have effect;
- (i) any request or inquiry made to the default contractor under the default contract but which has not been complied with on or before the date on which the default contract ceases to have effect, shall be complied with by the general medical services contractor as if it was a request or inquiry made under the equivalent term of the general medical services contract and any time specified in the general medical services contract for responding to any such request shall be deemed to run from the date on which the request was made to the default contractor;
- (j) any preference expressed by a patient under the default contract to receive services from a particular performer or class of performer under that default contract and which he has not withdrawn on or before the date on which the default contract ceases to have effect shall, with effect from the date on which the general medical services contract takes effect, be regarded, for the purposes of that general medical services contract, as a preference expressed under the term of that contract which gives effect to paragraph 18 of Schedule 5 to the 2004 Regulations;
- (k) any checks which the default contractor has made under the terms of his default contract which are equivalent to paragraphs 52 to 54 of Schedule 5 to the 2004 Regulations or steps which he has taken to satisfy himself under the terms of that contract equivalent to paragraphs 53(1)(b), 55 or 64(1) of that Schedule shall be regarded as checks made or steps taken by the general medical services contractor under the terms of his general medical services contract which give effect to those paragraphs;
- (l) any records relating to a patient which are required to be sent to the Board by the default contractor under the term of his default contract which is equivalent to paragraph 68(6) of Schedule 5 to the 2004 Regulations but which have not been sent on or before the date on which the default contract ceases to have effect, shall be sent to the Board by the general medical services contractor by the date on which the default contractor would have been required to send them had his default contract not ceased to have effect;
- (m) the reference to a warning given by the general medical services contractor in the term of the general medical services contract which gives effect to paragraph 20(3) of Schedule 5 to the 2004 Regulations shall be deemed to include a reference to a warning given by the default contractor.

(2) Where –

- (a) pursuant to paragraph (1)(e), a notification is deemed to have been given by a general medical services contractor under the term of his contract which gives effect to paragraph 64(1) of Schedule 5 to the 2004 Regulations on the date on which the general medical services contract takes effect; and
- (b) the notification under the equivalent provision of the default contract was given more than 28 days before the date on which the default contract ceased to have effect,

the right of the Board under the term of the general medical services contract which gives effect to paragraph 64 of Schedule 5 to the 2004 Regulations to object to the sub-contract covered by that notification shall not apply.

(3) Paragraph (1) does not apply to any action taken or required to be taken by either party to a default contract under –

- (a) the dispute resolution procedure;
- (b) the provisions relating to variation of the contract; or
- (c) the provisions relating to termination of the contract,

contained in the default contract.

Newly registered patients

43.—(1) Where a patient of a default contractor –

- (a) was, immediately before the default contract ceased to have effect, entitled to be invited to participate in a consultation under the term of the default contract equivalent to paragraph 4 of Schedule 5 to the 2004 Regulations; and
- (b) had not been given such an invitation,

that patient shall be regarded as a patient of the general medical services contractor who, on the date on which the general medical services contract takes effect, falls within the term of the general medical services contract which gives effect to paragraph 4 of Schedule 5 to the 2004 Regulations.

(2) In the case of a patient to whom paragraph (1) applies, the reference to a period of six months in the term of the general medical services contract which gives effect to paragraph 4(2) of Schedule 5 to the 2004 Regulations shall be read as if it was a reference to six months from the date of the patient's acceptance on or assignment to the default contractor's list.

Temporary residents

- 44.** Where, on the date on which the default contract ceases to have effect –
- (a) a default contractor has accepted a person as a temporary resident under the term of his default contract equivalent to paragraph 16 of Schedule 5 to the 2004 Regulations; and
 - (b) his responsibility for that patient has not yet been terminated under that term,

the person shall be treated as if he had been accepted as a temporary resident by the general medical services contractor under the term of his general medical services contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to a period of three months in that term shall be read as a reference to a period of three months starting with the date on which the person was accepted as a temporary resident by the default contractor.

Provision of immediately necessary treatment

45. Where, on the date on which the default contract ceases to have effect, a default contractor is responsible for providing immediately necessary treatment to any person under the term of the default contract equivalent to regulation 15 of the 2004 Regulations, the general medical services contractor shall continue to be responsible for providing such treatment to that person for the period for which the default contractor would have been responsible if the default contract had remained in force.

Removals from the list of patients

46.—(1) Where, on the date on which the default contract ceases to have effect, a Board has received a request from a patient to be removed from a default contractor's list of patients but that removal has not yet taken effect under the term of the default contract equivalent to paragraph 19(3) of Schedule 5 to the 2004 Regulations, that removal shall take effect as a removal from the list of patients of the general medical services contractor on the date on which it would have taken effect had the default contract remained in force.

(2) Where, on the date on which the default contract ceases to have effect, a Board has informed a default contractor and one of his registered patients of the matters required under the term of the default contract equivalent to paragraph 23 of Schedule 5 to the 2004 Regulations but the 30 days referred to in that term has not expired, the information shall be regarded as if it had been given under the term of the general medical services contract which gives effect to paragraph 23 of Schedule 5 to the 2004 Regulations subject to the modification that the reference in that term to 30 days shall be read as a reference to 30 days from the date of the advice given to the patient by the default contractor.

(3) Where, on the date on which the default contract ceases to have effect, a Board has given notice in writing to a default contractor in accordance with the term of his contract which is equivalent to paragraph 24 of Schedule 5 to the 2004 Regulations but the six months referred to in that term has not expired, the notice shall be regarded as if it had been given under the term of the general medical services contract which gives effect to paragraph 24 of Schedule 5 to the 2004 Regulations subject to the modification that the reference in that term to six months

shall be read as a reference to six months commencing with the date of the notice to the default contractor.

Sub-contracting

47.—(1) Where –

- (a) on the date on which the default contract ceases to have effect, the default contractor has in place a sub-contract, other than a contract for services with a health care professional for the provision by that professional personally of clinical services, which is in accordance with the terms of the default contract; and
- (b) the general medical services contractor wishes to continue that sub-contract for the period for which it would have continued had the default contract remained in force,

the term of the general medical services contract which gives effect to paragraph 64(1)(b) of Schedule 5 to the 2004 Regulations shall not apply to that sub-contract unless it is extended beyond the date referred to in sub-paragraph (b) or there is a material variation in its terms.

(2) In this Article, “health care professional” has the same meaning as in Article 15C of the 1972 Order^(a).

Complaints

48.—(1) Where –

- (a) a complaint –
 - (i) has been made to a default contractor under the complaints procedure established in accordance with the term of the default contract equivalent to paragraph 84 of Schedule 5 to the 2004 Regulations, or
 - (ii) falls to be investigated by a default contractor pursuant to Articles 22 or 23; and
- (b) on the date on which the default contract ceases to have effect the investigation of that complaint has not been concluded,

the complaint shall be investigated or, in an appropriate case, continue to be investigated, by the general medical services contractor under the complaints procedure established in accordance with the term of his general medical services contract which gives effect to paragraph 84 of Schedule 5 to the 2004 Regulations.

(2) In a case to which this Part applies, any references in the terms of the general medical services contract which give effect to paragraphs 84 to 88 and 90 of Schedule 5 to the 2004 Regulations to –

- (a) services provided by or received from the general medical services contractor;
- (b) a patient or former patient of the general medical services contractor; or
- (c) complaints made to the general medical services contractor,

shall be read as if they included a reference to services provided by or received from the default contractor, to the patient or former patient of the default contractor or to complaints made to the default contractor.

Refund of fees

49.—(1) Where, on the date on which a default contract ceases to have effect, a patient has paid a fee to the default contractor under the term of his default contract equivalent to regulation 24(3) of the 2004 Regulations but –

- (a) the period in that term for applying for refund of the fee has not yet expired; or
- (b) an application for refund of the fee has been made but not yet determined,

the fee shall be regarded as if it had been paid to the general medical services contractor under his general medical services contract and the term of the general medical services contract which gives effect to regulation 24(4) of the 2004 Regulations shall apply subject to the modifications specified in paragraph (2).

(a) Article 15C was amended by Article 6 of the 2004 Order

- (2) The modifications referred to in paragraph (1) are that –
- (a) references to the date on which the fee was paid shall be read as references to the date on which the fee was paid to the default contractor; and
 - (b) the reference to the general medical services contractor’s list of patients shall be read as a reference to the list of patients of the default contractor.

Annual returns and reviews

50.—(1) Where, in a case to which this Part applies, the periods or part of the periods covered by the default contract and the general medical services contract fall in the same financial year –

- (a) notwithstanding the term of the general medical services contract which gives effect to paragraph 75 of Schedule 5 to the 2004 Regulations, the Board shall not require an annual return from the general medical services contractor if a return covering all or part of the same financial year has been requested from the default contractor; and
- (b) any annual return submitted by the general medical services contractor for a financial year in which he also held a default contract shall provide the required information in relation to the default contract as well as in relation to the general medical services contract.

Carry-over of disputes between default and general medical services contracts

51.—(1) Where –

- (a) on or before the date on which a default contract ceases to have effect, a default contractor has referred a dispute arising out of or in connection with the default contract to be determined in accordance with the dispute resolution procedure; and
- (b) on the date on which the default contract ceases to have effect, that dispute has not been determined or withdrawn,

the adjudicator shall, in determining the dispute, consider the relevance of his determination to the general medical services contract which took effect immediately after the default contract ceased to have effect and, if he considers that his determination is relevant to that general medical services contract, he shall determine the dispute as if it were a dispute referred to him by the general medical services contractor under the dispute resolution procedure contained in the general medical services contract.

(2) In this Article, “adjudicator” means the Department or a person appointed by the Department under Article 8(4) of the 1991 Order or paragraph 93(5) of Schedule 5 to the 2004 Regulations.

Grounds for termination of the general medical services contract

52. Where, on or before the date on which the default contract ceases to have effect –

- (a) circumstances arise which would entitle the Board on or before that date to terminate the default contract under the term of the default contract equivalent to paragraph 105 of Schedule 5 to the 2004 Regulations; and
- (b) the Board has not terminated the default contract on those grounds,

those circumstances shall, for the purposes of the term of the general medical services contract which gives effect to paragraph 105 of Schedule 5 to the 2004 Regulations, be regarded as if they had arisen during the existence of the general medical services contract.

Notifications to patients affected by differences between the terms of a default and a general medical services contract

53. Where, in a case to which this Part applies –

- (a) the range of services provided to the registered patients of the general medical services contractor is to be different from that provided by the default contractor; or

- (b) patients who were on the default contractor's list of patients are not to be included on the list of patients of the general medical services contractor as a result of a change in the practice area,

the Board shall notify those patients in writing of the change and inform them of the steps they can take to obtain elsewhere the services in question or, as the case may be, register elsewhere for the provision of essential services (or their equivalent).

PART 4

TRANSITIONAL PROVISIONS RELATING TO THE CHOICE REGULATIONS

Assignment of patients

54. Where, on 31st March 2004, a person had applied to the Agency for assignment to a medical practitioner under regulation 4 of the Choice Regulations but that application had not yet been determined, the Board shall –

- (a) assign the patient in accordance with the terms of the contract, to –
 - (i) a default contractor, or
 - (ii) a general medical services contractor; or
- (b) otherwise make arrangements for the applicant to be provided with essential services (or their equivalent) in the area of the Board.

PART 5

TRANSITIONAL PROVISIONS RELATING TO THE 1997 REGULATIONS

Interpretation of this Part

55. In this Part –

“continuing matter” means any case, other than a case falling within paragraph 2, where a Board had not yet come to a decision on any matter under the 1997 Regulations,

and terms used shall bear the same meaning in this Part that they have in the Regulations.

Allocation of medical practitioners on previous lists

56. In the case of a medical practitioner, whose name, immediately before 1st April 2004, was included in a Board's medical list, his name shall on that day, be included in its primary medical services performers list.

Applications not decided on 1st April 2004

57. In any case where there was any application, including an application which the Board has deferred, by a medical practitioner to a Board for his name to be included in its medical list and that application has not been decided before 1st April 2004, it shall be deemed to be an application to have his name included in the primary medical performers list of that Board.

Matters relating to the medical practitioner

58.—(1) Subject to sub-paragraph (3), in a case falling within paragraph 2, any matter, question or proceeding relating to any medical practitioner under the 1997 Regulations that had not been finally decided before 1st April 2004, shall be treated as though it had arisen in relation

to the primary medical services performers list in which that medical practitioner has been included or, but for that matter, would have been included and shall continue to be dealt with by the Board.

(2) In a case where the medical practitioner's name was included on a medical list immediately before 1st April 2004 and if he was then suspended from that list, that suspension shall equally apply to the primary medical services performers list in which his name is included on and after 1st April 2004 as it did, in relation to the medical list, before that date.

(3) In any case where there is any continuing matter and that matter had not been finally decided before 1st April 2004, it shall be treated as though it had arisen in relation to the primary medical services performers list in which that medical practitioner has been included or, but for that matter, would have been included.

PART 6

TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS RELATING TO OUT OF HOURS ARRANGEMENTS AND SERVICES

Interpretation of this Part

59. In this Part –

“out of hours arrangement” means –

- (a) in relation to the period before 1st April 2004, an arrangement under paragraph 20(2) of Schedule 2 to the 1997 Regulations(a), or
- (b) in relation to the period from 1st April 2004, means an arrangement under the terms of a general medical services contract which gives effect to paragraph 1(2) of Schedule 6 to the 2004 Regulations (or the equivalent term of a default contract);

“out of hours services” means services required to be provided in all or part of the out of hours period which –

- (a) would be essential services if provided in core hours, or
- (b) are included –
 - (i) in a default contract as additional services funded under Article 35(2) of the No. 1 Order, or
 - (ii) in a general medical services contract as additional services funded under the global sum.

Terms of general medical services contracts and default contracts

60. Unless the contract or agreement is of a type or nature to which a particular Article does not apply –

- (a) a general medical services contract shall include or be deemed to include terms which have the effect specified in Articles 61 to 69, 67 and 68;
- (b) a default contract shall include or be deemed to include terms which have the effect specified in Articles 61 to 64, 66, 67 and 68.

Applications for approval of out of hours arrangements under general medical services and default contracts

61.—(1) Where, on or before 31st March 2004, a medical practitioner had applied to the Board for approval of an out of hours arrangement under paragraph 20(7) of Schedule 2 to the 1997 Regulations but that application had not yet been determined, it shall, if the medical practitioner meets the requirements in paragraph (2), be treated, on 1st April 2004, as if it were

(a) Paragraph 20(2) was amended by S.R. 1999 No. 100

an application made by the general medical services contractor under the term of his contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or by the default contractor under the equivalent term of his default contract) subject to the modification that the period of 28 days referred to in the term giving effect to paragraph 2(2) of Schedule 6 (or in the equivalent term of the default contract) shall be treated as beginning with and including the day on which the Board received the application under paragraph 20(7) of Schedule 2 to the 1997 Regulations.

- (2) The requirements referred to in sub-paragraph (1) are that the medical practitioner –
 - (a) has entered as an individual medical practitioner into a general medical services contract, or a default contract;
 - (b) is one of two or more individuals practising in partnership who have entered into such a contract; or
 - (c) is a legal and beneficial shareholder in a company which has entered into a general medical services contract.
- (3) In any application which falls within paragraph (1) –
 - (a) any references to the patients of the medical practitioner shall be deemed to be references to the patients of the general medical services contractor or the default contractor;
 - (b) any references to the whole of the out of hours period shall be deemed to be references to –
 - (i) the period beginning at 6.30pm on any day from and including Monday to Thursday and ending at 8am on the following day,
 - (ii) the period between 6.30pm on Friday and 8am the following Monday, and
 - (iii) a public holiday or a local holiday agreed with the Board;
 - (c) in any reference to part of the out of hours period –
 - (i) any reference to 7pm on Monday to Friday shall be deemed to be a reference to 6.30pm, and
 - (ii) any reference to 1pm on Saturday shall be deemed to be a reference to 6.30pm on Friday; and
 - (d) any references to a particular transferee doctor shall be deemed to be references to –
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under Article 15 of the No. 1 Order;
 - (ii) that person and any other medical practitioner with whom he is practising in partnership who have entered into a general medical services contract or a default contract or are a party to contractual arrangements made under Article 15 of the No. 1 Order; or
 - (iii) the company in which he is a legal and beneficial shareholder and which has entered into a general medical services contract.

Approvals of out of hours arrangements under general medical services and default contracts

- 62.**—(1) Where, on 31st March 2004 –
- (a) a medical practitioner had approval from a Board of an out of hours arrangement; and
 - (b) that approval had not been withdrawn under paragraph 21 of Schedule 2 to the 1997 Regulations and the withdrawal taken effect,

that approval shall, if the medical practitioner meets the requirements in Article 61(2), be treated from 1st April 2004 as if it were an approval granted to the general medical services contractor by the Board pursuant to the term of his contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or to the default contractor under the equivalent term of his default contract) except in the circumstances specified in paragraph (2).

(2) The circumstances referred to in paragraph (1) are that the approval under paragraph 20 of Schedule 2 to the 1997 Regulations related to an arrangement with a transferee doctor as defined in paragraph 20(1)(c) of Schedule 2 to the 1997 Regulations and that doctor –

- (a) has not entered as an individual medical practitioner into a general medical services contract, or a default contract, which includes the provision of out of hours services;
 - (b) is not one of two or more individuals practising in partnership who have entered into such a contract;
 - (c) is not a legal and beneficial shareholder in a company which has entered into such a general medical services contract; or
 - (d) is not a party to contractual arrangements under Article 15 of the No. 1 Order which include the provision of out of hours services.
- (3) The terms of an approval granted pursuant to paragraph (1) shall be the same as those of the approval granted under paragraph 20 of Schedule 2 to the 1997 Regulations except that –
- (a) any references to the patients of the medical practitioner shall be deemed to be references to the patients of the general medical services contractor or the default contractor;
 - (b) any references to the whole of the out of hours period shall be deemed to be references to –
 - (i) the period beginning at 6.30pm on any day from and including Monday to Thursday and ending at 8am on the following day,
 - (ii) the period between 6.30pm on Friday and 8am the following Monday, and
 - (iii) a public holiday or a local holiday agreed with the Board;
 - (c) in any reference to part of the out of hours period –
 - (i) any reference to 7pm on Monday to Friday shall be deemed to be a reference to 6.30pm, and
 - (ii) any reference to 1pm on Saturday shall be deemed to be a reference to 6.30pm on Friday; and
 - (d) any references to a particular transferee doctor shall be deemed to be references to –
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under Article 15 of the No. 1 Order;
 - (ii) that person and any other medical practitioner with whom he is practising in partnership who have entered in to a general medical services contract or a default contract or are a party to contractual arrangements made under Article 15 of the No. 1 Order; or
 - (iii) the company in which he is a legal and beneficial shareholder and which has entered into a general medical services contract.

Refusal of approval of out of hours arrangements under general medical services contracts and default contracts

63.—(1) Where –

- (a) on or before 31st March 2004, a Board had notified a medical practitioner under paragraph 20(10) of Schedule 2 to the 1997 Regulations that it had refused approval of an out of hours arrangement; and
- (b) on or before 1st April 2004, that medical practitioner –
 - (i) has entered as an individual medical practitioner into a general medical services contract, or a default contract, which requires the provision of out of hours services;
 - (ii) is one of two or more individuals practising in partnership who have entered into such a contract; or
 - (iii) is a legal and beneficial shareholder in a company which has entered into such a general medical services contract,

paragraphs (2) and (3) shall apply.

(2) In a case where the time for appealing under paragraph 20(11) of Schedule 2 to the 1997 Regulations had not expired on or before 31st March 2004, that refusal shall be treated as if it were a refusal under the term of the general medical services contract referred to in paragraph (1)(b) which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract), subject to the modification that the 30 days referred to in the term of the general medical services contract giving effect to paragraph 2(5)

of that Schedule (or in the equivalent term of the default contract) shall be treated as beginning with and including the day on which the Board's notification under paragraph 20(10) was sent.

(3) In a case where, on 31st March 2004, an appeal had been made under paragraph 20(11) but not yet been determined or withdrawn, that appeal shall continue to be dealt with as if paragraph 20 had not been revoked and, if the appeal is successful, the approval of the arrangement shall be treated as an approval given under the term of the general medical services contract referred to in paragraph (1)(b) which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the relevant default contract), except in the circumstances specified in paragraph (4).

(4) The circumstances referred to in paragraph (3) are that the appeal related to an arrangement with a transferee doctor as defined in paragraph 20(1)(c) of Schedule 2 to the 1997 Regulations and that doctor –

- (a) has not entered as an individual medical practitioner into a general medical services contract, or a default contract, which includes the provision of out of hours services;
- (b) is not one of two or more individuals practising in partnership who have entered into such a contract;
- (c) is not a legal and beneficial shareholder in a company which has entered into such a general medical services contract; or
- (d) is not a party to contractual arrangements under Article 15 of the No. 1 Order which include the provision of out of hours services.

(5) For the purposes of an appeal dealt with pursuant to this Article, the application which is the subject of the appeal shall be read as if –

- (a) any references to the patients of the medical practitioner were references to the patients of the general medical services contractor or the default contractor;
- (b) any references to the whole of the out of hours period were references to –
 - (i) the period beginning at 6.30pm on any day from and including Monday to Thursday and ending at 8am on the following day,
 - (ii) the period between 6.30pm on Friday and 8am the following Monday, and
 - (iii) a public holiday or local holiday agreed with the Board;
- (c) in any reference to part of the out of hours period –
 - (i) any reference to 7pm on Monday to Friday were a reference to 6.30pm, and
 - (ii) any reference to 1pm on Saturday were a reference to 6.30pm on Friday; and
- (d) any references to a particular transferee doctor were references to –
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under Article 15 of the No. 1 Order;
 - (ii) that person and any other medical practitioner with whom he is practising in partnership who have entered in to a general medical services contract or a default contract or are a party to contractual arrangements made under Article 15 of the No. 1 Order; or
 - (iii) the company in which he is a legal and beneficial shareholder and which has entered into a general medical services contract.

Review of approval of out of hours arrangements under general medical services and default contracts

64.—(1) Where –

- (a) an approval of an out of hours arrangement granted under paragraph 20 of Schedule 2 to the 1997 Regulations is to be treated, pursuant to Article 62, as an approval granted under the term of a general medical services contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or under the equivalent term of a default contract); and
- (b) on or before 31st March 2004, the Board had commenced a review of its approval of that arrangement under paragraph 21 of Schedule 2 to the 1997 Regulations but had not yet made its determination,

that review shall continue as if it were a review under the term of the general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract), subject to the modification that the 30 days referred to in the term giving effect to paragraph 4(2) of that Schedule (or in the equivalent term of the default contract) shall be treated as beginning with and including the day on which the Board sent its notice under paragraph 21(1) of Schedule 2 to the 1997 Regulations.

Review of approval of out of hours arrangements under general medical services contracts which follow default contracts

65. Where –

- (a) an approval of an out of hours arrangement granted under a default contract is to be treated, pursuant to Article 42, as an approval granted under the term of a general medical services contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations; and
- (b) on or before the date on which the default contract ceases to have effect, the Board has commenced a review of its approval of that arrangement under the term of the default contract which is equivalent to paragraph 4 of Schedule 6 to the 2004 Regulations but has not yet made its determination,

that review shall continue as if it were a review under the term of the general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations, subject to the modification that the 30 days referred to in the term giving effect to paragraph 4(2) of that Schedule shall be treated as beginning with the day on which the Board sent its notice under the equivalent term of the default contract.

Withdrawal of approval of out of hours arrangements under general medical services contracts and default contracts

66.—(1) Where –

- (a) an approval of an out of hours arrangement granted under paragraph 20 of Schedule 2 to the 1997 Regulations is to be treated, pursuant to Article 62, as an approval granted under the term of a general medical services contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or under the equivalent term of a default contract); and
- (b) on or before 31st March 2004, a Board had notified a medical practitioner of its withdrawal of approval of that arrangement under paragraph 21 of Schedule 2 to the 1997 Regulations but that withdrawal had not yet taken effect,

paragraphs (2) to (4) shall apply.

(2) In a case where, on 31st March 2004 –

- (a) the time for appealing under paragraph 21(6) of Schedule 2 to the 1997 Regulations had expired without any appeal being made; or
- (b) an appeal had been made under that paragraph but had been determined or withdrawn before the end of the period of two months beginning with and including the date on which the notice of withdrawal was sent by the Board under paragraph 21(4) of that Schedule,

the withdrawal shall take effect as a withdrawal of approval under the term of the general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract) on the date on which it would have taken effect had paragraph 21(7) of Schedule 2 to the 1997 Regulations not been revoked.

(3) In a case where the time for appealing under paragraph 21(6) of Schedule 2 to the 1997 Regulations had not expired on or before 31st March 2004, the notice of determination of withdrawal shall be deemed to be a notice of determination of withdrawal of approval on notice under the term of the general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract), subject to the modifications that –

- (i) the 30 days referred to in the term of the general medical services contract giving effect to paragraph 4(8) (or in the equivalent term of the default contract) shall be treated as beginning with the day on which the Board sent the notice under paragraph 21, and
- (ii) the date referred to in the term of the general medical services contract giving effect to paragraph 4(9)(a) (or in the equivalent term of the default contract) shall be treated as being the date on which the Board sent the notice under paragraph 21.

(4) In a case where, on 31st March 2004, an appeal had already been made under paragraph 21(6) of Schedule 2 to the 1997 Regulations but not yet been determined or withdrawn, the appeal shall continue to be dealt with as if paragraphs 20 and 21 of that Schedule had not been revoked and, if the appeal is dismissed, the withdrawal of approval shall take effect as a withdrawal of approval under the term of the general medical services contract which gives effect to paragraph 4 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract) on the date on which the general medical services contractor or the default contractor received notice of the dismissal of the appeal.

Appeal against immediate withdrawal of approval of out of hours arrangements under general medical services and default contracts

67.—(1) Where –

- (a) on or before 31st March 2004, a Board had notified a medical practitioner of its immediate withdrawal of approval of an out of hours arrangement under paragraph 22 of Schedule 2 to the 1997 Regulations; and
- (b) on or before 1st April 2004, that medical practitioner –
 - (i) has entered as an individual medical practitioner into a general medical services contract, or a default contract, which requires the provision of out of hours services;
 - (ii) is one of two or more individuals practising in partnership who have entered into such a contract; or
 - (iii) is a legal and beneficial shareholder in a company which has entered into such a general medical services contract,

paragraphs (2) and (3) shall apply.

(2) In a case where the time for appealing under paragraph 22(4) had not expired on or before 31st March 2004, that withdrawal shall be treated as if it were a withdrawal of approval under the term of the general medical services contract which gives effect to paragraph 5(1)(b) of Schedule 6 to the 2004 Regulations (or under the equivalent term of a default contract) subject to the modification that the 30 days referred to in the term giving effect to paragraph 5(5) of that Schedule (or in the equivalent term of the default contract) shall be treated as beginning with and including the day on which the Board's notification under paragraph 22(2) of Schedule 2 to the 1997 Regulations was sent.

(3) In a case where, on 31st March 2004, an appeal had already been made under paragraph 22(4) but not yet been determined or withdrawn, that appeal shall continue to be dealt with as if paragraphs 20 and 22 of Schedule 2 to the 1997 Regulations had not been revoked and, if the appeal is successful, the approval of the arrangement shall be treated as an approval given under the term of the general medical services contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations (or under the equivalent term of the default contract), except in the circumstances specified in paragraph (4).

(4) The circumstances referred to in paragraph (3) are that the appeal related to an arrangement with a transferee doctor as defined in paragraph 20(1)(c) of Schedule 2 to the 1997 Regulations and that doctor –

- (a) has not entered as an individual medical practitioner into a general medical services contract, or a default contract, which includes the provision of out of hours services;
- (b) is not one of two or more individuals practising in partnership who have entered into such a contract;
- (c) is not a legal and beneficial shareholder in a company which has entered into such a general medical services contract; or

(d) is not a party to contractual arrangements under Article 15 of the No. 1 Order which include the provision of out of hours services.

(5) The terms of an arrangement granted approval pursuant to paragraph (3) shall be the same as those of the approval previously granted approval under paragraph 20 of Schedule 2 to the 1997 Regulations except that –

- (a) any references to the patients of the medical practitioner shall be amended to be references to the patients of the general medical services contractor or the default contractor;
- (b) any references to the whole of the out of hours period shall be amended to be references to –
 - (i) the period beginning at 6.30pm on any day from and including Monday to Thursday and ending at 8am on the following day,
 - (ii) the period between 6.30pm on Friday and 8am the following Monday, and
 - (iii) a public holiday or local holiday agreed with the Board;
- (c) in any reference to part of the out of hours period –
 - (i) any reference to 7pm on Monday to Friday shall be amended to be a reference to 6.30pm, and
 - (ii) any reference to 1pm on Saturday shall be deemed to be a reference to 6.30pm on Friday; and
- (d) any references to a particular transferee doctor shall be amended to be references to –
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under Article 15 of the No. 1 Order;
 - (ii) that person and any other medical practitioner with whom he is practising in partnership who have entered in to a general medical services contract or a default contract or are a party to contractual arrangements made under Article 15 of the No. 1 Order; or
 - (iii) the company in which he is a legal and beneficial shareholder and which has entered into a general medical services contract.

References to the dispute resolution procedure in general medical services contracts which follow default contracts

68. Where –

- (a) on or before the date on which a default contract ceases to have effect, a default contractor has received notice of –
 - (i) the refusal of an application for approval of an out of hours arrangement under the term of his contract equivalent to paragraph 2(4) of Schedule 6 to the 2004 Regulations;
 - (ii) a determination of a Board under the term of his contract equivalent to paragraph 4(6) of Schedule 6 to the 2004 Regulations which gives notice of immediate withdrawal of approval; or
 - (iii) immediate withdrawal of approval under the term of his contract equivalent to paragraph 5(1)(b) of that Schedule;
- (b) on the date on which the default contract ceases to have effect –
 - (i) the 30 days for referring that matter in accordance with the dispute resolution procedure has not expired, and
 - (ii) no referral under that procedure has yet been made; and
- (c) the default contractor has entered into a general medical services contract which takes effect immediately after the default contract ceases to have effect,

the refusal or notice shall be treated, for the purposes of referring the matter in accordance with the dispute resolution procedure contained in the general medical services contract, as if it were a refusal or notice of withdrawal given under the equivalent terms of the general medical services contract and the general medical services contractor may refer the matter in accordance with that dispute resolution procedure before the end of the period of 30 days beginning with

the day on which the Board sent the notice of refusal, determination, or, as the case may be, withdrawal, to the default contractor.

Carry over of disputes relating to out of hours arrangements between default and general medical services contracts

69.—(1) Where –

- (a) on or before the date on which a default contract ceases to have effect, a default contractor has referred a dispute to be determined in accordance with the dispute resolution procedure under the terms of his default contract equivalent to paragraphs 2(5), 4(8) or 5(5) of Schedule 6 to the 2004 Regulations;
- (b) on the date on which the default contract ceases to have effect, that dispute has not been determined or withdrawn; and
- (c) the default contractor has entered into a general medical services contract which takes effect immediately after the default contract ceases to have effect,

paragraph (2) shall apply.

(2) The dispute shall continue to be dealt with as if it were a dispute referred under the dispute resolution procedure contained in the general medical services contract relating to –

- (a) a refusal of an application under the term of the general medical services contract giving effect to paragraph 2 of Schedule 6 to the 2004 Regulations;
- (b) a determination of the Board under the term of the general medical services contract giving effect to paragraph 4 of that Schedule; or
- (c) an immediate withdrawal of approval under the term of the general medical services contract giving effect to paragraph 5 of that Schedule.

Saving and transitory provision in relation to paragraphs 20 to 22 of Schedule 2 to the 1997 Regulations

70.—(1) In this Article, expressions used both in this Article and in the 1997 Regulations have the same meaning as in the 1997 Regulations as modified by paragraph (3).

(2) Notwithstanding the revocation of the 1997 Regulations, paragraphs 20 to 22 of Schedule 2 to those Regulations^(a) shall, until 31st December 2004, continue in operation as they had effect on 31st March 2004, subject to the modifications specified in paragraph (3), for the purposes of –

- (a) continuing and withdrawing approvals of out of hours arrangements under paragraph 20 of Schedule 2 to those Regulations;
- (b) determining applications for approval made to a Board by a medical practitioner under paragraph 20 of Schedule 2 to those Regulations; and
- (c) the making and determining of appeals under paragraph 20 of Schedule 2 to those Regulations.

(3) The modifications referred to in paragraph (2) are as if –

(a) in paragraph 20 of Schedule 2 –

- (i) in paragraph 20 (1)(a)(iii), for “Bank and Public holidays” there were substituted “a public holiday or a local holiday agreed with the Board”,
- (ii) for the definition of “out of hours arrangement” there were substituted –

“out of hours arrangement” means an arrangement under –

- (a) the term of a general medical services contract which gives effect to paragraph 1(2) of Schedule 6 to the GMS Contract Regulations, or
- (b) the equivalent term of a default contract;

(iii) in the definition of “transferee doctor” there were added –

“and a general medical services contractor, a default contractor or a party to contractual arrangements made under Article 15 of the General Medical Services

(a) Paragraph 20(2) was amended by S.R.1999 No. 100

Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004(a) whose contract, agreement or contractual arrangements include out of hours services;”, and

(b) there were inserted in the appropriate place –

“default contractor” means a person who has entered into a contract under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004;

“GMS Contract Regulations” means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(b);

“general medical services contractor” means a person who holds a contract under Article 57 of the 1972 Order(c);

“out of hours services” –

(a) in relation to services under a general medical services contract, has the same meaning as in regulation 2(1) of the GMS Contract Regulations, and

(b) in relation to services under a default contract, has the same meaning as in the Default Contract 2004 dated 24th March 2004(d).

(4) Any approval of an out of hours arrangement which has been granted by a Board –

(a) before 31st March 2004 under paragraph 20 of Schedule 2 to the 1997 Regulations and continued under paragraph (2)(a); or

(b) after 31st March 2004 under paragraph 20 of Schedule 2 to those Regulations as saved and modified by this Article, and which has not come to an end before that date, shall cease to have effect on 1st January 2005.

Sub-contracting of out of hours services under general medical services contracts

71.—(1) Where, prior to 1st January 2005, a general medical services contractor wishes to sub-contract all or part of his out of hours services in circumstances which would require the written approval of the Board in accordance with the term of the general medical services contract which gives effect to paragraph 65 of Schedule 5 to the 2004 Regulations, he shall be deemed to have such written approval if, at the date on which he enters into the sub-contract –

(a) he has, or, pursuant to Article 62, 63 or 67 is deemed to have, approval of an out of hours arrangement, under the term of the general medical services contract which gives effect to paragraph 2 of Schedule 6 to the 2004 Regulations whose terms are, in all material respects, identical to those of the proposed sub-contract;

(b) that approval has not been suspended or withdrawn; and

(c) he has not previously entered into a sub-contract for his out of hours services in reliance on the approval referred to in sub-paragraph (a).

(2) The general medical services contractor shall notify the Board in writing as soon as reasonably practicable of any sub-contract which he proposes to enter into or has entered into pursuant to paragraph (1).

(3) An approval deemed to have been granted pursuant to paragraph (1) shall be regarded, for all purposes, as an approval granted under the term of the general medical services contract which gives effect to paragraph 65 of Schedule 5 to the 2004 Regulations.

Out of hours services to patients not registered with general medical services contractors and default contractors

72.—(1) Where a general medical services contractor or a default contractor is required under Article 24 or 25 of the No. 1 Order to provide any of the additional services to patients

(a) S.R. 2004 No. 141

(b) S.R. 2004 No. 140

(c) Article 57 was inserted into the 1972 Order by Article 4 of the Primary Medical Services (Northern Ireland) Order 2004 (N.I. 2)

(d) The Default Contract 2004 is published by the Department of Health, Social Services and Public Safety. It is available on its website at www.dhsspsni.gov.uk/hss/gp_contracts/index.html or a copy can be obtained by writing to the Department of Health, Social Services and Public Safety, Room D.3.21, Castle Buildings, Stormont Estate, Belfast BT4 3SQ

who are not included on his list of patients, he shall, for so long as that requirement continues, and subject to paragraphs (2) and (4), also be required to provide that service to those patients throughout the out of hours period.

(2) In the case of a general medical services contract, the requirement referred to in paragraph (1) shall cease on the date on which any opt out of out of hours services commences pursuant to the terms of the general medical services contract which gives effect to paragraphs 4 or 5 of Schedule 2 to the 2004 Regulations.

(3) Where paragraph (2) applies, the requirement to inform patients of opt outs in the term of the general medical services contract which gives effect to paragraph 6 of Schedule 2 to the 2004 Regulations shall apply to the patients to whom services are provided pursuant to this Article as it applies to the general medical services contractor's own registered patients.

(4) Nothing in this Article shall require a general medical services contractor or a default contractor to provide services under this Article if, in the reasonable opinion of the default contractor or the general medical services contractor in the light of the patient's medical condition it would be reasonable in all the circumstances for the patient to wait for the services required until the next time at which he could obtain such services during core hours.

(5) Services included in a general medical services contract or a default contract pursuant to this Article shall be deemed to fall within the definition of out of hours services for the purposes of –

- (a) the terms of the general medical services contract which give effect to paragraphs 11, 13 and 65 to 67 of Schedule 5 to the 2004 Regulations; or
- (b) any equivalent terms of the default contract.

(6) In this Article "out of hours period" has the same meaning as in regulation 2(1) of the 2004 Regulations.

Application of regulation 30 of the 2004 Regulations to general medical services contracts entered into under Part 2 of the No. 1 Order

73. Where a person enters into a general medical services contract pursuant to an entitlement under Part 2 of the No. 1 Order under which services are not to be provided until on or after 1st January 2005, regulation 30 of the 2004 Regulations (out of hours services) shall apply to that general medical services contract as it applies to general medical services contracts under which services are to be provided before that date.

PART 7

TRANSITIONAL ARRANGEMENTS: THE HEALTH AND PERSONAL SOCIAL SERVICES (DISCIPLINARY PROCEDURES) REGULATIONS (NORTHERN IRELAND) 1996

Interpretation

74.—(1) In this Part –

"the Disciplinary Procedures Regulations" means the Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996(a);

"amendments" in respect of any regulation or regulations in the Disciplinary Procedures Regulations means amendments made to that regulation by paragraph 8 of Schedule 1 to this Order;

"appropriate Board" has the same meaning as in the Disciplinary Procedures Regulations;

(a) S.R. 1996 No. 137 as amended by S.R. 1999 No. 15

“contracting Board” means a Board that has entered into a default contract or a general medical services contract (as the case may be) with –

- (a) a doctor who is the subject of the allegation,
- (b) a partnership, where a doctor who is the subject of the allegation is a partner,
- (c) a limited company, where a doctor who is the subject of the allegation is a legal and beneficial shareholder of shares in that company;

“doctor” has the same meaning as in the Disciplinary Procedures Regulations;

“relevant contractor” means a party to a general medical services contract or default contract with a contracting Board, where that contractor is –

- (a) a doctor who is the subject of the allegation,
- (b) a partnership, where a doctor who is or was the subject of the allegation is a partner in that partnership,
- (c) a limited company, where a doctor who is or was the subject of the allegation is a legal and beneficial shareholder of shares in that company; and

“relevant date” means 1st April 2004.

(2) Unless the context otherwise requires, any reference in this Part to –

- (a) a numbered regulation is to the regulation bearing that number in the Disciplinary Procedures Regulations; and
- (b) a numbered Schedule is to the Schedule to the Disciplinary Procedures Regulations bearing that number.

Cases where no decision has been made before the relevant date as to whether disciplinary action should be taken (regulation 4 of the Disciplinary Procedures Regulations)

75.—(1) Where, before the relevant date, or on or after the relevant date in respect of a matter that occurred before the relevant date, a Board receives, or has received information that could amount to an allegation that a doctor had failed to comply with his terms of service and –

- (a) that Board, or its reference committee (as the case may be), has not taken a final decision pursuant to regulation 4(1) before the relevant date as to whether it will take no action or take one or both of the courses of action set out in regulation 4(2); and
- (b) any time limit specified in regulation 6 has not expired,

paragraph (2) shall apply.

(2) Where this paragraph applies, the Board shall –

- (a) if it is the appropriate Board, continue to be the appropriate Board for the purposes of the Disciplinary Procedures Regulations, and consider and take such action as it sees fit pursuant to the Disciplinary Procedures Regulations, subject to Article 74, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; or
- (b) if it is not the appropriate Board, forward the information to that Board as soon as is reasonably practicable, and that Board shall consider the information received and take such action as it sees fit pursuant to the Disciplinary Procedures Regulations, subject to the time limits specified in the Disciplinary Procedures Regulations, and Article 74, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect.

(3) If the appropriate Board, or its reference committee, decides, pursuant to paragraph (2)(a) or (b), to refer the matter to the discipline committee of another Board (B) in accordance with regulation 4(2)(a) or (7) –

- (a) that Board (B) shall investigate the matter and report to the appropriate Board as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; and
- (b) the appropriate Board shall be entitled, subject to Article 74, to take any action it could have taken pursuant to the Disciplinary Procedures Regulations as if those amendments had not taken effect.

Referrals to investigating discipline committees before the relevant date (regulation 5 of the Disciplinary Procedures Regulations)

76. Where a Board (A) has, before the relevant date, referred a matter in respect of a doctor to another Board (B) in accordance with regulation 4(2)(a) or (7) and –

- (a) that matter has not been finally determined by the discipline committee of that Board (B) before the relevant date –
 - (i) the discipline committee of that Board (B) shall investigate the matter and report to the Board (A) as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect, and
 - (ii) the Board (A) shall be entitled to take any action it could have taken pursuant to the Disciplinary Procedures Regulations as if those amendments had not taken effect, subject to Article 74; or
- (b) that Board (A) has received the report of the discipline committee of the Board (B) but has not yet determined what (if any) action to take as a result of the report, the Board (A) shall be entitled to take any action it could have taken pursuant to the Disciplinary Procedures Regulations as if the amendments to regulations 2 to 8 had not taken effect, subject to Article 74.

Determination of a Board or the Department made before the relevant date (regulations 8, 9, 10 and 11 of the Disciplinary Procedures Regulations)

77.—(1) Where, before the relevant date, a Board (or where relevant, the Department) has determined pursuant to regulation 8(5)(a) and 9(3) or regulation 11 (as the case may be) that an amount should be recovered from the doctor, insofar as any of that amount has not been recovered before the relevant date, it shall continue to be recoverable by the Board that was the appropriate Board for the purposes of the Disciplinary Procedures Regulations in respect of that matter, and it shall be treated as a debt owed by that doctor to that Board.

(2) Where a contracting Board has record of, or receives notification of, an adverse determination made before the relevant date pursuant to regulation 8, 9, 10 or 11 in respect of a doctor (where, in the case of a determination under regulation 8, such a determination was not overturned on appeal), paragraph (3) shall apply without prejudice to any other rights the contracting Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

- (3) Where this paragraph applies, the contracting Board –
 - (a) may take into account that adverse determination in relation to a relevant contractor if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 107(7) of Schedule 5 to the 2004 Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract; but
 - (b) shall not, pursuant to sub-paragraph (a), take into account any adverse determination that was made that occurred more than 6 years prior to the date upon which the contracting Board is considering terminating the general medical services contract or the default contract (as the case may be).

Determination of a Board made on or after the relevant date (regulation 8 of the Disciplinary Procedures Regulations)

78.—(1) Where, on or after the relevant date, an appropriate Board is determining what (if any) action to take pursuant to regulation 8 in accordance with provision made in this Part, it shall make such a determination in accordance with such limitations and modifications to that regulation as are specified in this Article.

- (2) The appropriate Board may –
 - (a) pursuant to regulation 8(1)(c)(i), determine that no further action should be taken;

- (b) pursuant to regulation 8(3), determine after consultation with the Local Medical Committee that it would have considered it appropriate to impose a special limit on the number of persons for whom a doctor may undertake to provide treatment;
- (c) pursuant to regulation 8(5)(a), determine that an amount shall be recovered from the doctor; or
- (d) pursuant to regulation 8(5)(c), determine that it would have warned the doctor to comply more closely with his terms of service in future, if those terms of service were still applicable,

and if it makes any one or more of the decisions specified in sub-paragraphs (b) to (d), it shall, after the period specified in regulation 8(11)(a) or (b) (as applicable) has expired, notify in writing the contracting Board of its decision and the reasons for it, if the Board is a different Board to the appropriate Board.

(3) Where, pursuant to paragraph (2)(c), the appropriate Board determines that an amount should be recovered from the doctor, regulation 8(8) shall not apply and that amount shall be recoverable by the appropriate Board and it shall be treated as a debt owed by that doctor to that appropriate Board.

(4) Where the appropriate Board has notified the contracting Board that it has made any of the determinations specified in paragraph (2)(b) to (d), or where the appropriate Board is the contracting Board, paragraph (5) shall apply without prejudice to any other rights the contracting Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

- (5) Where this paragraph applies, the contracting Board –
 - (a) may, in relation to a relevant contractor, take into account the determination of the appropriate Board if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 107(7) of Schedule 5 to the 2004 Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract; but
 - (b) shall not, pursuant to sub-paragraph (a), take into account any determination of an appropriate Board that was made more than 6 years prior to the date upon which the contracting Board is considering terminating the general medical services contract or the default contract (as the case may be).

Appeals to the Department against determinations of Boards (regulations 9, 10 and 11 of the Disciplinary Procedures Regulations)

- 79.**—(1) Where –
- (a) a doctor has appealed against a determination of a Board in accordance with regulation 9 before the relevant date, but that appeal has not been finally determined before that date; or
 - (b) in respect of a determination made by a Board in accordance with regulation 8 before the relevant date, the time limit specified in regulation 9(2) for appealing that determination has not expired before the relevant date, and the doctor serves a notice of appeal on or after the relevant date but within the time limit specified in regulation 9(2),

that appeal shall be determined pursuant to regulations 9, 10 and 11, as if the amendments to those regulations had not taken effect.

- (2) Where an appropriate Board has made a determination in respect of a doctor on or after the relevant date pursuant to this Part –
 - (a) the doctor shall be entitled to appeal against that determination in accordance with regulation 9; and
 - (b) that appeal shall be determined pursuant to regulations 9, 10 and 11,
 as if the amendments to those regulations and had not taken effect.

(3) Where, on or after the relevant date, the Department is determining pursuant to regulation 9, 10 or 11 (as the case may be) what (if any) action to take in respect of a doctor, it shall make a determination pursuant to those regulations as if the amendments to those regulations had not taken effect and that determination shall have effect in accordance with this Article.

- (4) If, in accordance with paragraph (3), the Department determines pursuant to –
- (a) regulation 8(3), that it would have considered it appropriate to impose a special limit on the number of persons for whom a doctor may undertake to provide treatment;
 - (b) regulation 9(3)(d), that there has been an overpayment and, if so, what amount;
 - (c) to regulation 8(5)(a) and 9(3) or 11, that an amount shall be recovered from the doctor; or
 - (d) to regulation 8(5)(c), that it would have warned the practitioner to comply more closely with his terms of service in future, if those terms of service were still applicable,

it shall, in addition to the persons specified in regulation 10(14), notify the Board specified in paragraph (5).

(5) The Department shall, pursuant to paragraph (4)(a) to (d), notify the contracting Board of its determination if that Board is different from the Board referred to in regulation 10(14).

(6) Where, pursuant to regulation 8(5)(a) and 9(3) or 11, the Department has determined that an amount shall be recovered from a doctor it shall direct the appropriate Board, to recover that amount from the doctor and that amount shall be a debt owed to that appropriate Board.

(7) Where, pursuant to paragraph (5), the Department has notified the contracting Board that it has taken any of the decisions specified in paragraph (4)(a) to (d), whether or not the contracting Board is also the appropriate Board, paragraph (8) shall apply without prejudice to any other right the contracting Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

(8) Where this paragraph applies, the contracting Board may, in relation to a relevant contractor, take into account the determination of the Department if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 107(7) of Schedule 5 to the 2004 Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract.

(9) The contracting Board shall not, pursuant to paragraph (8), take into account any notification received that relates to a determination that was made by the Department that occurred more than 6 years prior to the date upon which the contracting Board is considering the matter pursuant to paragraph (8).

Excessive prescribing (regulation 14 of the Disciplinary Procedures Regulations)

- 80.**—(1) Where, on 31st March 2004, a Board had –
- (a) referred a question of excessive prescribing for investigation and determination by a professional committee under regulation 14; and
 - (b) that committee had not yet made its determination,

the investigation by the committee shall continue and its determination be made as if that regulation were still in force.

(2) Where, on 31st March 2004, a professional committee had given notice of its determination to a medical practitioner under paragraph (18) of regulation 14 but –

- (a) the medical practitioner had not given notice of appeal in accordance with paragraph (20) of that regulation; and
- (b) the time for appealing in paragraph (19) of that regulation had not yet expired,

the time for appealing shall continue as if regulation 14 were still in operation.

- (3) Where –

- (a) on 31st March 2004, a medical practitioner had given notice of appeal against the determination of a professional committee in accordance with paragraph (20) of regulation 14 but that appeal had not been determined or withdrawn; or
- (b) a medical practitioner has given notice of such an appeal after 31st March 2004, pursuant to paragraph (2),

that appeal shall continue to be dealt with as if regulation 14 were still in operation.

- (4) In this Article, “professional committee” has the same meaning as in regulation 14.

Investigation of certification (regulation 15 of the Disciplinary Procedures Regulations)

81.—(1) Where the Department has –

- (a) before the relevant date, or on or after the relevant date in respect of an investigation that took place before the relevant date, received information in relation to an investigation of medical certificates issued under and for the purposes of the Social Security (Medical Evidence) Regulations (Northern Ireland) 1976^(a) by a doctor, but he has not yet determined whether to refer the matter for consideration pursuant to regulation 15(1); or
- (b) before the relevant date, pursuant to regulation 15(1), referred a matter to a Local Medical Committee, or to a joint committee of two or more Local Medical Committees and the Local Medical Committee has not yet finally determined the matter pursuant to regulation 15(6),

the Department may, in a case falling within sub-paragraph (a), refer the matter as if the amendments to regulation 15 had not taken effect and, in relation to both sub-paragraphs, the Local Medical Committee or joint committee of Local Medical Committees shall consider or continue to consider (as the case may be) and determine the matter in accordance with regulation 15, subject to the provisions in this Article.

(2) Where, pursuant to paragraph (1), the Local Medical Committee makes a determination pursuant to regulation 15(6), it shall forward its report to the contracting Board, in addition to the persons specified in regulation 15(6), unless the doctor exercises his right of appeal pursuant to regulation 15.

(3) Where –

- (a) a doctor –
 - (i) has appealed against a finding of a Local Medical Committee made before the relevant date pursuant to regulation 15(7), and within the time limit specified in that paragraph, and that appeal has not been determined before the relevant date, or
 - (ii) appeals against a finding of a Local Medical Committee on or after the relevant date in respect of a finding of a Local Medical Committee made pursuant to paragraph (1) within the time limit specified in regulation 15(7); or
- (b) the Department –
 - (i) has referred a finding of a Local Medical Committee made before the relevant date pursuant to regulation 15(10), and that referral has not been determined before the relevant date, or
 - (ii) referred a finding of a Local Medical Committee on or after the relevant date in respect of a finding of a Local Medical Committee made pursuant to paragraph (1),

that appeal or referral shall be determined in accordance with regulation 15 as if the amendments to that regulation had not taken effect, save that written notification of the determination made by the referee shall be given to the contracting Board.

(4) The Department may, on or after the relevant date, determine that, pursuant to regulation 16(12), an amount should be recovered from a doctor, and shall, in determining whether an amount should be recovered, act as if the amendments to regulations 11(3), (4) and (5) and 15 had not taken effect.

(a) S.R.1976 No. 175

(5) Where pursuant to regulation 15(12), the Department has determined that an amount should be recovered from a doctor –

- (a) before the relevant date, where that amount has not been fully recovered before the relevant date; or
- (b) on or after the relevant date pursuant to this Article,

that amount shall be recoverable by the appropriate Board, insofar as it has not already been recovered before the relevant date in respect of an amount falling within sub-paragraph (a), and that amount shall be a debt owed to that Board.

(6) Where the contracting Board has received notification pursuant to this Article of an adverse determination in respect of the doctor pursuant to regulation 15, paragraph (7) shall apply without prejudice to any other right the contracting Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

(7) Where this paragraph applies, the contracting Board may, in relation to a relevant contractor, take into account the adverse determination of the Department if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 107(7) of Schedule 5 to the Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract.

(8) The contracting Board shall not, pursuant to paragraph (7), take into account any notification that relates to a determination that was made more than 6 years prior to the date upon which the contracting Board is considering the matter pursuant to paragraph (7).

Investigation of record keeping (regulation 16 of the Disciplinary Procedures Regulations)

82.—(1) Where the Board has –

- (a) before the relevant date, or on or after the relevant date in respect of an examination of record cards by a medical officer that took place before the relevant date, received information in relation to an examination of record cards held by a doctor, but it has not yet determined whether to refer the matter for consideration pursuant to regulation 16(1); or
- (b) before the relevant date, pursuant to regulation 16(1), referred a matter to a Local Medical Committee and the Local Medical Committee has not yet finally determined the matter pursuant to regulation 16(8),

the Board may, in a case falling within sub-paragraph (a), refer the matter as if the amendments to regulation 16 had not taken effect and, in relation to both sub-paragraphs, the Local Medical Committee shall consider or continue to consider (as the case may be) and determine the matter in accordance with regulation 16, subject to the provisions in this Article.

(2) Where, pursuant to paragraph (1), the Local Medical Committee makes a determination pursuant to regulation 16(8), it shall forward its report to the contracting Board, in addition to the persons specified in regulation 16(9), unless the doctor exercises his right of appeal pursuant to regulation 16(10).

(3) Where –

- (a) a doctor –
 - (i) has appealed against a finding of a Local Medical Committee made before the relevant date pursuant to regulation 16(10), and within the time limit specified in that paragraph, and that appeal has not been determined before the relevant date, or
 - (ii) appeals against a finding of a Local Medical Committee on or after the relevant date in respect of a finding of a Local Medical Committee made pursuant to paragraph (1) within the time limit specified in regulation 16(10); or
- (b) the Department –
 - (i) has referred a finding of a Local Medical Committee made before the relevant date pursuant to regulation 16(12), and that referral has not been determined before the relevant date, or

(ii) referred a finding of a Local Medical Committee on or after the relevant date in respect of a finding of a Local Medical Committee made pursuant to paragraph (1), that appeal or referral shall be determined in accordance with regulation 16 as if the amendments to that regulation (and regulation 16(8) and (9) where applicable) had not taken effect, save that written notification of the determination made by the referee shall be given to the contracting Board.

(4) The Department may, on or after the relevant date, determine that, pursuant to regulation 16(14), an amount should be recovered from a doctor and shall, in determining whether an amount should be recovered, act as if the amendments to regulations 11(3), (4) and (5) and 16 had not taken effect.

(5) Where pursuant to regulation 16(14), the Department has determined that an amount should be recovered from a doctor –

(a) before the relevant date, where that amount has not been fully recovered before the relevant date; or

(b) on or after the relevant date pursuant to this Article,

that amount shall be recoverable by the appropriate Board, insofar as it has not already been recovered before the relevant date in respect of an amount falling within sub-paragraph (a), and that amount shall be a debt owed to that Board.

(6) Where the contracting Board has received notification pursuant to this Article of an adverse determination in respect of the doctor pursuant to regulation 16, paragraph (7) shall apply without prejudice to any other right the contracting Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

(7) Where this paragraph applies, the contracting Board may, in relation to a relevant contractor, take into account the adverse determination of the Department if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 107(7) of Schedule 5 to the 2004 Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract.

(8) The contracting Board shall not, pursuant to paragraph (7), take into account any notification that relates to a determination that was made more than 6 years prior to the date upon which the contracting Board is considering the matter pursuant to paragraph (7).

Decision as to treatment for which fees may be charged by doctors (regulation 17 of the Disciplinary Procedures Regulations)

83.—(1) Where a question has arisen as to whether any treatment given by a doctor to a patient is treatment for which he may demand or accept a fee from a patient within the meaning of regulation 17(1), and that question has arisen before the relevant date, or on or after the relevant date in respect of any fee charged by a doctor before the relevant date, and that question –

(a) has not been referred for consideration by the Local Medical Committee; or

(b) has been referred to the Local Medical Committee and the Local Medical Committee has not yet finally determined the matter pursuant to regulation 17,

the question may, in a case falling within sub-paragraph (a), be referred as if the amendments to that regulation and Schedule 4 had not taken effect and, in relation to both sub-paragraphs, the Local Medical Committee shall consider or continue to consider (as the case may be) and determine the matter in accordance with regulation 17 and Schedule 4, subject to the provisions in this Article.

(2) Where a Local Medical Committee makes a determination pursuant to paragraph (1), regulation 17(6) shall apply to the Board.

(3) Where a Board –

(a) has referred a finding of a Local Medical Committee made before the relevant date to the Department pursuant to regulation 17(2), and that referral has not been determined before the relevant date, or

(b) refers a finding of a Local Medical Committee on or after the relevant date,
that referral shall be determined in accordance with regulation 17 and Schedule 4 as if the amendments to that regulation and Schedule had not taken effect.

(4) Where the Department –

(a) has referred a finding of a Local Medical Committee made before the relevant date pursuant to regulation 17(6), and that referral has not been determined before the relevant date; or

(b) refers a finding of a Local Medical Committee on or after the relevant date,

that referral shall be determined in accordance with regulation 17 and Schedule 4 as if the amendments to that regulation and Schedule had not taken effect.

Functions of Local Medical Committees

84. Where –

(a) a Local Medical Committee has, before the relevant date had any matter referred to it for its consideration that it had not finally determined before the relevant date; and

(b) pursuant to this Part, that matter is to be determined by the Local Medical Committee on or after the relevant date,

the Local Medical Committee that had the matter referred to it shall be deemed to be a Local Medical Committee that is recognised by a Board pursuant to Article 55B of the 1972 Order for the purpose of exercising the continuing functions conferred on it in relation to the matter by this Part.

PART 8 MISCELLANEOUS

Details to be included on prescription forms etc.

85.—(1) Notwithstanding –

(a) the terms of a general medical services contract which give effect to paragraph 61(2)(b) of Schedule 5 to the 2004 Regulations; or

(b) the equivalent terms of a default contract,

prescription forms issued for the purposes of a default contract or a general medical services contract before 31st March 2005 need not include the name of the contractor.

(2) In paragraph (1), “prescription form” has the same meaning as in regulation 2(1) of the 2004 Regulations.

Transitory interpretation of references in statutory provisions to primary medical services

86. For so long as default contracts entered into pursuant to Article 5(3) of the 2004 Order (general medical services: transitional) exist, a reference in any statutory provision to primary medical services under the 1972 Order shall be deemed to include a reference to services provided under such contracts.

Transitory interpretation of references to general medical services contracts

87.—(1) For as long as default contracts entered into pursuant to Article 5(3) of the 2004 Order (general medical services: transitional) exist, any reference to a general medical services contract or to a contract under Article 57 of the 1972 Order in the statutory provisions listed in paragraph (2) shall be deemed to include a reference to a default contract.

(2) The statutory provisions referred to in paragraph (1) are –

- (a) the 1972 Order, Articles 2(2)(a), 5(3)(aa)(b) and 6(2)(c);
- (b) the Access to Health Records (Northern Ireland) Order 1993(d), Article 3(2)(a);
- (c) the Trade Union and Labour Relations (Northern Ireland) Order 1995(e), Article 144(2);
- (d) the Employment Rights (Northern Ireland) Order 1996, Article 67K(1)(ba)(f);
- (e) the Health and Personal Social Services (Northern Ireland) Order 1991, Article 21(3)(a) and (b)(g).

PART 9

SAVINGS, MODIFICATIONS, AMENDMENTS AND REVOCATIONS

Meaning of suitable experience

88.—(1) Until the coming into force of Article 5 of the 2003 Order, where, in any statutory provision, there is a reference to a medical practitioner being “suitably experienced” within the meaning of Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978(h), that reference shall be construed in accordance with sub-paragraph (2).

(2) A medical practitioner shall, pursuant to sub-paragraph (1), be regarded as being “suitably experienced” if he –

- (a) holds a certificate of prescribed experience;
- (b) holds a certificate of equivalent experience;
- (c) is exempt from the need to have acquired the prescribed experience pursuant to regulation 5 of the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(i) (exemptions); or
- (d) has an acquired right to practise pursuant to regulation 5 of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(j), other than by virtue of regulation 5(1)(d) of those Regulations (acquired rights).

(3) In this Article, “certificate of prescribed experience” and “certificate of equivalent experience” have the meanings assigned to them in regulation 2(1) of the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998.

(4) Notwithstanding the repeal of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978, the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998 and the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 shall remain in operation (subject to the transitory modifications made in this Part) until their revocation by virtue of Article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order.

Saving of Article 144 of the Trade Union and Labour Relations (Northern Ireland) Order 1995

89. Notwithstanding the coming into operation of the amendments to the definition of worker in Article 144 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (health service practitioners) made by paragraph 16 of Schedule 1 to the 2004 Order(k), in

-
- (a) Article 2(2) was amended by paragraph 2 of Schedule 1 to the 2004 Order
 - (b) Article 5(3)(aa) was inserted by paragraph 3 of Schedule 1 to the 2004 Order
 - (c) Article 6(2) was inserted by paragraph 4 of Schedule 1 to the 2004 Order
 - (d) S.I. 1993/1250 (N.I. 4). Article 3(2)(a) was substituted by paragraph 15 of Schedule 1 to the 2004 Order
 - (e) S.I. 1995/1980 (N.I. 12). Article 144(2) was inserted by paragraph 16 of Schedule 1 to the 2004 Order
 - (f) S.I. 1996/1919 (N.I. 16). Article 67K(1)(ba) was inserted by paragraph 17 of Schedule 1 to the 2004 Order
 - (g) S.I. 1991/194 (N.I. 1). Article 21(3)(a) and (b) were substituted by paragraph 14 of Schedule 1 to the 2004 Order
 - (h) S.I. 1978/1907 (N.I. 26)
 - (i) S.R. 1998 No. 13
 - (j) S.I. 1994/3130 as amended by S.I. 1997/2817 and 2003/3148. The whole Regulations are prospectively revoked by S.I. 2003/1250, Article 31(5) and Part 2 of Schedule 10
 - (k) Paragraph 16 of Schedule 1 was commenced on 1st April 2004 by Article 2 of the 2004 Commencement Order

relation to any complaint arising in respect of a matter which occurred before 1st April 2004, Article 144 shall have effect as if those amendments had not been brought into force.

Transitional provision in relation to the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001

90. Notwithstanding the amendments made to the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(a), by paragraph 9 of Schedule 1, those regulations shall, in relation to any employment before 1st April 2004, continue to apply as if those amendments had not been made.

Transitory modification of Article 21 of the 1991 Order

91. For as long as default contracts entered into pursuant to Article 5 of the 2004 Order (general medical services: transitional) exist, Article 21 of the Health and Personal Social Services (Northern Ireland) Order 1991 (indicative amounts for doctors' practices) shall be read as if –

- (a) the reference in sub-paragraph (3)(a) to a contract under Article 57 of the Order included a reference to a default contract entered into pursuant to Article 5 of the 2004 Order; and
- (b) after sub-paragraph (3), there were inserted –
 - “(3A) Where, in the same financial year, the members of a practice enter into –
 - (a) a contract pursuant to Article 5 of the Primary Medical Services (Northern Ireland) Order 2004; and
 - (b) a contract with the same Board under Article 57 of the Order which takes effect immediately after the contract referred to in paragraph (a) ceases to have effect, that practice will, for that financial year, count as a single practice for the purposes of this Article.”.

Transitory modification of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994

92.—(1) Until their revocation by virtue of Article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 are to have effect as if they were amended in accordance with this Article.

- (2) In regulation 5 (acquired rights)(b), in paragraph (4)(a), after –
- (a) “within the meaning of Article 31(2) of the National Health Service Act 1977”, insert “and Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978”; and
- (b) “for the purposes of regulation 4(1), (2)(a) or (3)(a) of the National Health Service (General Medical Services Contracts) Regulations 2004”, omit “or” and insert “the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004; and”.

Transitory modification of the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998

93.—(1) Until their revocation by virtue of Article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998 are to have effect as if they were amended in accordance with this Article.

- (2) In regulation 2 (interpretation) –
- (a) in the definition of “General Practice (GP) Registrar” there shall be substituted –

(a) S.R. 2001 No. 357

(b) Regulation 5 was previously amended by S.I.1997/2817

“means a medical practitioner who is being trained in general practice by a medical practitioner who has been approved for that purpose by the JCPTGP pursuant to regulation 7;”.

- (3) Regulation 4 (experience and certificates required) shall be omitted.
- (4) In regulation 5 (exemptions), in paragraph (1) for sub-paragraph (d) substitute –
“(d) if his name was, on 31st December 1994, included in a medical list for the provision of general medical services limited to –
(i) child health surveillance services only,
(ii) contraceptive services only,
(iii) maternity medical services only,
(iv) minor surgery services only, or
(v) any combination of the services mentioned in paragraphs (i) to (iv);”.

Minor and consequential amendments

- 94.** The statutory provisions listed in Schedule 1 are amended as there specified.

Revocations

- 95.** The statutory provisions listed in Schedule 2 are revoked to the extent there specified.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 31st March 2004.

(L.S.)

Dr. J. F. Livingstone

Senior Officer of the Department of Health, Social Services and Public Safety

MINOR AND CONSEQUENTIAL AMENDMENTS

The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976

1.—(1) The Social Security (Medical Evidence) Regulations (Northern Ireland) 1976(a) shall be amended as provided in this paragraph.

(2) In Part 1 of Schedule 1 (rules), for paragraph 3 substitute –

“3. Where the claimant is on the list of a person providing primary medical services under the Health and Personal Social Services (Northern Ireland) Order 1972 and is being attended by a doctor performing such services, the doctor’s statement shall be on the form provided by the Department for the purpose and shall be signed by that doctor.”.

Medicines (Pharmacy and General Sale – Exemption) Order 1980

2.—(1) The Medicines (Pharmacy and General Sale – Exemption) Order 1980(b) shall be amended as provided in this paragraph.

(2) In paragraph (3), for sub-paragraph (b)(iii) substitute –

“(iii) in relation to Northern Ireland, the provision of primary medical services under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972;”.

The Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985

3. In the Statutory Sick Pay (Medical Evidence) Regulations (Northern Ireland) 1985(c), in Part 1 of Schedule 1 (rules)(d), for paragraph 3 substitute –

“3. Where the patient is on the list of a person providing primary medical services under the Health and Personal Social Services (Northern Ireland) Order 1972 and is being attended by a doctor performing such services, the doctor’s statement shall be on the form provided by the Department for the purpose and shall be signed by the attending doctor.”.

General Ophthalmic Services Regulations (Northern Ireland) 1986

4.—(1) The General Ophthalmic Services Regulations (Northern Ireland) 1986(e) shall be amended as provided in this paragraph.

(2) In Schedule 1, for paragraph 8C (complaints against ophthalmic medical practitioners) substitute –

“(1) Where a contractor who, being an ophthalmic medical practitioner, also performs primary medical services under a GMS contract for any person to whom he provides general ophthalmic services, the complaints procedure established and operated in accordance with the terms of that GMS contract shall apply in relation to any matter reasonably connected with his provision of general ophthalmic services as it applies as respects the provision of services under the GMS contract.

(2) Accordingly, any requirement as to co-operation with investigations of complaints by other bodies imposed on a GMS contractor under the term of his contract which gives effect to paragraph 89 of Schedule 5 to the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(f) also applies in relation to complaints about such matters.

(3) In this paragraph –

“GMS contract” means a general medical services contract under Article 57 of the Order and “general medical services contractor” shall be construed accordingly.

(4) For as long as there are in existence contracts entered into under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004(g) (“default contracts”), any reference in this paragraph to a GMS contract shall be read as including a reference to a contract entered into under that Article and any reference to a term of a GMS contract shall be read as including a reference to the equivalent term of the default contract.”

(a) S.R. 1976 No. 175; relevant amending Rule is S.R. 1999 No. 100

(b) S.I. 1980/1924

(c) S.R. 1985 No. 321

(d) Schedule 1 was amended by S.R. 1999 No. 100

(e) S.R. 1986 No. 163; relevant amending Regulations are S.R. 1989 No. 113, S.R. 1995 No. 115, S.R. 1996 No. 416, S.R. 1999 No. 112 and 394, S.R. 2002 No. 85 and S.R. 2003 No. 176

(f) S.R. 2004 No. 140

(g) S.R. 2004 No. 141

Health and Social Services Trusts (Membership and Procedure) Regulations (Northern Ireland) 1994

5. The Health and Social Services Trusts (Membership and Procedure) Regulations (Northern Ireland) 1994(a) shall be amended as provided in this paragraph.

(1) In regulation 1 (citation, commencement and interpretation), omit the definition of “general medical practitioner”.

(2) In regulation 11 (disqualification for appointment of chairman and non-executive directors), in paragraph (1) –

(a) for sub-paragraph (f), for “he is a general medical practitioner” substitute –

“(f) he –

(i) performs or provides primary medical services under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972,

(ii) is a partner in a partnership that, or is the legal and beneficial owner of shares in a company that, provides primary medical services under Part VI of that Order, or

(iii) is an employee of any of those, or

(iv) is a general dental practitioner or an employee of one; or;”

(b) in sub-paragraph (h), insert at the end “or a list prepared pursuant to Article 57G(b) of that Order”.

The Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996

6.—(1) The Children (Private Arrangements for Fostering) Regulations (Northern Ireland) 1996(c) shall be amended as provided in this paragraph.

(2) In regulation 2 (general welfare of children), in paragraph (2)(f) for the words “general medical practitioner” to the end, substitute “person who provides primary medical services pursuant to Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972,”.

The General Dental Services Regulations (Northern Ireland) 1993

7. In the General Dental Services Regulations (Northern Ireland) 1993(d), in regulation 2 (interpretation)(e) –

(a) in the definition of “Local Dental Committee” omit “, Local Medical Committee”; and

(b) after the definition of “Local Dental Committee” insert –

“Local Medical Committee” means a committee recognised by the Board under Article 55B of the Order(f);”

The Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996

8. Subject to Articles 70 to 80, the Health and Personal Social Services (Disciplinary Procedures) Regulations 1996(g) shall be amended as follows –

(a) in regulation 2 (interpretation) –

(i) in paragraph (1) –

(aa) omit the definitions of “Local Medical Committee”, “medical discipline committee”, “medical list” and “medical officer”;

(bb) in the definition of “deputy”, omit paragraph (a);

(cc) in the definition of “Part VI service”, omit the words “general medical services”;

(dd) in the definition of “practitioner”, omit the word “doctor,”;

(ee) in the definition of “relevant local representative committee”, omit paragraph (a);

(ff) in the definition of “terms of service”, omit “the terms of service for doctors contained in Schedule 1”; and

(gg) in the definition of “treatment”, omit the words “in relation to general medical services, has the same meaning as in the General Medical and Pharmaceutical Regulations, and,”;

(b) in regulation 3 (establishment of committees), omit paragraph (1)(a);

(a) S.R. 1994 No. 63

(b) Article 57G was inserted into the Order by Article 8 of the 2004 Order

(c) S.R. 1996 No. 452

(d) S.R. 1993 No. 326

(e) The definition of “local dental committee” was amended by S.I. 1991/194 (N.I. 1)

(f) Article 55B was inserted into the Order by paragraph 9 of Schedule 1 to the 2004 Order

(g) S.R. 1996 No. 137 as amended by S.R. 1999 No. 15

- (c) in regulation 4 (provisions relating to the start of disciplinary proceedings) –
 - (i) omit paragraph (5)(b) and (6); and
 - (ii) in paragraph (5)(a), omit the word “medical”;
- (d) in regulation 5 (referral to discipline committee), omit paragraph (2)(a);
- (e) in regulation 6 (time limits), in paragraph (3)(a), omit the word “doctor.”;
- (f) in regulation 8 (determination of appropriate Board), omit paragraphs (3) and (4);
- (g) in regulation 9 (appeal to the Department) –
 - (i) in paragraph (1)(b), omit (3), and
 - (ii) in paragraph (5), omit “(3),” in the second place it appears;
- (h) in regulation 10 (procedure on appeal) –
 - (i) in paragraph (5), omit “(3),”
 - (ii) in paragraph (7), omit sub-paragraph (a), and
 - (iii) in paragraph (8), omit sub-paragraph (a);
- (i) in regulation 11 (recovery of amounts from practitioners following appeal), in paragraph (4), for the words “paragraphs (3), or”, substitute “paragraph”;
- (j) omit regulations 14 (excessive prescribing by doctors), 15 (investigation of certification), 16 (investigation of record keeping) and 17 (decision as to treatment for which fees may be charged by doctors);
- (k) in regulation 21 (referral of matters to professional bodies), in paragraph (3)(a) omit the words “a doctor or”;
- (l) in Schedule 1 (constitution of discipline committees) –
 - (i) omit paragraph 2(1)(b)(ii),
 - (ii) in paragraph 2(2), for “(ii)”, substitute “(iii)”,
 - (iii) in paragraph 2(4), omit sub-paragraph (a), and
 - (iv) in paragraph 8(b)(i), omit the word “doctor” and omit sub-paragraph (c)(i);
- (m) in Schedule 2 (procedure for investigation by discipline committees) –
 - (i) in paragraph 2, omit sub-paragraph (1)(a), and
 - (ii) in paragraph 9, omit sub-paragraph (c)(i) and (d);
- (n) in Schedule 3, omit paragraph 1; and
- (o) omit Schedule 4 (rules of procedure under regulation 17).

The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001

9.—(1) The Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001(**63**) shall be amended as provided in this paragraph.

- (2) In regulation 2 (interpretation) –
 - (a) for the definition of “assistant practitioner” substitute –
 - “ “assistant practitioner” means –
 - (a) a person on the primary medical services performers list who is employed (other than by a Health and Social Services Board) to perform primary medical services under a GMS contract, a default contract or a PMS agreement; or
 - (b) an employee of a dental practitioner whose name is included on a list being himself a dental practitioner who, in such employment, is engaged in assisting his employer in the actual discharge of his duties as such practitioner and for whose employment the consent of the Health and Social Services Board is required;”;
 - (b) for the definition of “medical list”, substitute in the appropriate place –
 - “ “primary medical services performers list” means a list prepared by a Health and Social Services Board pursuant to regulation 4(1) of the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(**b**);
- (c) in the definition of “practitioner” –
 - (i) in paragraph (a) for “a registered medical practitioner or a registered dentist whose name is included in the medical list of a Health and Social Services Board or, as the case may be,” substitute “a registered dentist whose name is included”,
 - (ii) in paragraph (c), omit “a registered medical practitioner or”,
 - (iii) omit “and” after paragraph (d),

(a) S.R. 2001 No. 367
 (b) S.R. 2004 No. 149

- (iv) in paragraph (e) –
 - (aa) for “a registered medical practitioner or a registered dentist who is a medical pilot scheme employee or, as the case may be, a dental pilot scheme employee,” substitute “a registered dentist who is a dental pilot scheme employee”;
 - (bb) in sub-paragraph (i), omit “the medical list or, as the case may be,”
 - (cc) in the full out words at the end, omit “medical or”, and
 - (dd) at the end, insert “and”, and
- (v) at the end, add paragraph (f) –
 - “(f) a registered medical practitioner who is included in a primary medical services performers list and who is providing services under –
 - (i) a GMS contract or a default contract, or
 - (ii) a PMS agreement;”;
- (d) omit the definitions of “medical pilot scheme employee” and “personal medical services”; and
- (e) insert, in the appropriate place –
 - ““default contract” means a contract under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004(a);
 - “GMS contract” means a contract under Article 57 of the 1972 Order(b);
 - “PMS agreement” means an agreement made under Article 15B of the 1972 Order(c);”;
- (3) In regulation 3 (persons to whom the regulations apply), omit paragraph (1)(f).
- (4) In regulation 5 (recovery of costs), in paragraph (7)(c), for “to –
 - (b) a person providing piloted services, or
 - (d) a registered medical practitioner who is a medical pilot scheme employee,”
 substitute “to a person providing piloted services”.

The Prescription Only Medicines (Human Use) Order 1997

10.—(1) The Prescription Only Medicines (Human Use) Order 1997(d) shall be amended as provided in this paragraph.

(2) In Article 12B (exemption for health professionals who supply or administer prescription only medicines under a Patient Group Direction in order to assist doctors or dentists in providing national health services)(e), for paragraph 3(b)(iii) substitute –

- “(iii) in relation to Northern Ireland, the provision of primary medical services under Part VI of the Health and Personal Social Services (Northern Ireland) Order 1972;”.

The Charges for Drugs and Appliances Regulations (Northern Ireland) 1997

11.—(1) The Charges for Drugs and Appliances Regulations (Northern Ireland)1997(f) shall be amended as provided in this paragraph.

(2) In regulation 2 (interpretation), in paragraph (1) –

- (a) omit the definition of “medical list”;
- (b) in the definition of “patient”, for paragraph (a) substitute –
 - “(a) any person who is provided with primary medical services under Part VI of the Order;”;
- (c) in the definition of “prescription form”,
 - (a) in paragraph (a), omit “a doctor or”;
 - (b) in paragraph (b) omit “personal medical services” and substitute “primary medical services”;
- (d) in the definition of “terms of service”, omit paragraph (a).

(3) In regulation 4 (supply of drugs and appliances by doctors), in paragraph (6), for “payable by the Agency” substitute “payable by the Board”.

(a) S.R. 2004 No. 141

(b) Article 57 was inserted into the 1972 Order by Article 4 of the Primary Medical Services (Northern Ireland) Order 2004 (N.I. 2) (“ the 2004 Order”)

(c) Article 15B was inserted into the 1972 Order by Article 21 of the 1997 Order and amended by Articles 6 and 7 of the 2004 Order

(d) S.I. 1997/1830

(e) Article 12B was inserted by S.I. 2000/1917 and amended by S.I. 2002/2469

(f) S.R. 1997 No. 382 as amended by S.R. 1998 No. 135, S.R. 1999 No. 100, S.R. 2000 No. 57, S.R. 2001 No. 123, S.R. 2002 No. 91 and S.R. 2003 No. 153

*The Health Services (Tribunal and Disciplinary Procedures) (Amendment) Regulations
(Northern Ireland) 1999*

12. In the Health Services (Tribunal and Disciplinary Procedures) (Amendment) Regulations (Northern Ireland) 1999(a) –

- (a) in regulation 3(a), omit the definition of “personal medical services”; and
- (b) omit regulation 3(b).

*The Health Services (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments)
Regulations (Northern Ireland) 1999*

13. In the Health Services (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations (Northern Ireland) 1999(b), in Regulation 1(2), omit the definition of “the 1997 Regulations”.

*The Medical Act 1983 (Approved Medical Practices and Conditions of Residence) and General
Medical Services (Amendment No. 3) Regulations (Northern Ireland) 2001*

14.—(1) The Medical Act 1983 (Approved Medical Practices and Conditions of Residence) and General Medical Services (Amendment No. 3) Regulations (Northern Ireland) 2001(c) shall be amended as provided in this paragraph.

(2) In regulation 2 (medical practices qualifying for approval) –

(a) in paragraph (1) for sub-paragraph (a) substitute –

“(a) “GP Registrar” has the meaning assigned to it in regulation 2(1) of the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004; and”

(b) in paragraph (2)(d) for “General Practice (GP) Registrar” substitute “GP Registrar”.

(3) In regulation 3 (conditions as to residence), in paragraph (1) for the words “the General Medical Services Regulations (Northern Ireland) 1997” substitute “The Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004.”

(4) Omit regulation 4 (amendment of the General Medical Services Regulations (Northern Ireland) 1997).

The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003

15.—(1) The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(d) shall be amended as provided in this paragraph.

(2) In Article 10 (the General Practitioners Register) –

(a) in paragraph 4, for sub-paragraph (c), substitute –

“(c) in Northern Ireland, be included in a primary medical services performers list”;

(b) in paragraph (6), omit sub-paragraph (c).

(3) In Schedule 1 (interpretation), insert at the appropriate alphabetical position –

““a primary medical services performers list” means a list of medical practitioners prepared and published pursuant to Article 57G of the Health and Personal Social Services (Northern Ireland) Order 1972;”.

(4) In Schedule 8 (transitional, transitory and saving provisions), in paragraph 22(2) (general practitioners permitted to work within the National Health Service during the transitional period) for sub-paragraph (c) substitute –

“(c) in Northern Ireland, inclusion in a primary medical services performers list;”.

(5) In Schedule 9 (consequential amendments to primary legislation), omit paragraph 7.

*The Health and Personal Social Services (Amendments relating to Prescribing by Nurses and
Pharmacists etc.) Regulations (Northern Ireland) 2003*

16. In the Health and Personal Social Services Amendments relating to Prescribing by Nurses and Pharmacists etc.) Regulations (Northern Ireland) 2003(e), omit regulation 1(2)(b).

(a) S.R. 1999 No. 15
(b) S.R. 1999 No. 100
(c) S.R. 2001 No. 217
(d) S.I. 2003/1250
(e) S.R. 2003 No. 447

The Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004

17. In regulation 3 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(a) (HS travel expenses), in paragraph (1)(a) for “personal medical” substitute “primary medical services provided under Part VI of the Order”.

SCHEDULE 2

Article 90

REVOCATIONS

(1) <i>Regulations revoked</i>	(2) <i>References</i>	(3) <i>Extent of revocation</i>
General Medical Services Regulations (Northern Ireland) 1997	S.R. 1997 No. 380	The whole Regulations
General Medical Services (Amendment) Regulations (Northern Ireland) 1998	S.R. 1998 No. 9	The whole Regulations
The Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998	S.R. 1998 No. 412	The whole Regulations
The Health Services (Pilot Schemes: Part VI Practitioners) Regulations (Northern Ireland) 1998	S.R. 1998 No. 413	The whole Regulations
General Medical Services (Amendment) Regulations (Northern Ireland) 1999	S.R. 1999 No. 276	The whole Regulations
The Health Services (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations (Northern Ireland) 1999	S.R. 1999 No. 100	Regulations 2, 3, 4 and 15
General Medical Services (Amendment) Regulations (Northern Ireland) 2000	S.R. 2000 No. 217	The whole Regulations
General Medical Services (Amendment) Regulations (Northern Ireland) 2001	S.R. 2001 No. 135	The whole Regulations
General Medical Services (Amendment No. 2) Regulations (Northern Ireland) 2001	S.R. 2001 No. 167	The whole Regulations
General Medical Services (Miscellaneous Amendments) Regulations (Northern Ireland) 2001	S.R. 2001 No. 218	The whole Regulations
General Medical Services (Amendment No. 4) Regulations (Northern Ireland) 2001	S.R. 2001 No. 374	The whole Regulations
Pharmaceutical Services and General Medical Services (Amendment) Regulations (Northern Ireland) 2002	S.R. 2002 No. 92	Regulation 7

(a) S.R. 2004 No. 91

(1) <i>Regulations revoked</i>	(2) <i>References</i>	(3) <i>Extent of revocation</i>
General Medical Services (Amendment No. 2) Regulations (Northern Ireland) 2002	S.R. 2002 No. 266	The whole Regulations
General Medical Services (Amendment) Regulations (Northern Ireland) 2002	S.R. 2002 No. 213	The whole Regulations
General Medical Services (Amendment) Regulations (Northern Ireland) 2003	S.R. 2003 No. 6	The whole Regulations
General Medical Services (Amendment No. 2) Regulations (Northern Ireland) 2003	S.R. 2003 No. 133	The whole Regulations
General Medical Services (Amendment No. 2) Regulations (Northern Ireland) 2003	S.R. 2003 No. 205	The whole Regulations
The Health and Personal Social Services (Amendments Relating to Prescribing by Nurses and Pharmacists etc) Regulations (Northern Ireland) 2003	S.R. 2003 No. 447	Regulation 3

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order makes transitional and consequential provision arising from the replacement on 1st April 2004 of arrangements for the provision of general medical services under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (“the 1972 Order”) with general medical services contracts under Article 57 of that Order (as inserted by Article 4 of the Primary Medical Services (Northern Ireland) Order 2004 (“the 2004 Order”).

In the case of general medical services, this Order supplements the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004 (S.R. 2004 No. 141) (“the No. 1 Order”).

Part 2 of the Order is concerned with transitional provision in relation to general medical services. It deals with matters which are still outstanding on 31st March 2004 under the General Medical Services Regulations (Northern Ireland) 1997 (S.R. 1997 No. 380) (“the 1997 Regulations”) which are revoked. In most cases, it provides for those matters to be dealt with as part of the new contractual arrangements.

Part 3 of the Order deals with transitional provision between default contracts (which, under Article 13 of the No. 1 Order, are short-term contracts which can be entered into on or before 31st March 2004 by those who had been providing general medical services under Article 56 of the 1972 Order pending agreement on a permanent general medical services contract) and the succeeding general medical services contract. It provides for certain actions etc taken under the default contract to carry forward to the general medical services contract.

Part 4 of the Order deals with transitional arrangements for general medical services in relation to the assignment of patients under regulations 4 to 6 of the Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998 (S.R. 1998 No. 412) which are revoked.

Part 5 of the Order makes transitional provision for matters relating to inclusion on the medical list under the 1997 Regulations.

Part 6 of the Order deals with out of hours arrangements and services. Articles 56 to 64, 63 and 64 make transitional provision in relation to matters outstanding on 31st March 2004 under paragraphs 20 to 22 of Schedule 2 to the 1997 Regulations. Articles 61, 64 and 65 make transitional provision in relation to matters outstanding on the date on which a default contract is replaced by a general medical services contract. Article 66 provides for the 1997 Regulations to remain in operation for certain purposes until 31st December 2004 subject to certain modifications. Articles 67 and 69 deal with other miscellaneous transitional matters in relation to out of hours services.

Part 7 of the Order is concerned with transitional provision in relation to the Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996 which are amended so that they no longer apply to doctors. It makes provision for matters which are outstanding in relation to doctors under those regulations on 31st March 2004 to be concluded.

Part 8 of the Order includes a number of miscellaneous transitional and transitory provisions.

Part 9 of the Order (and Schedules 1 and 2) set out savings, modifications, amendments and revocations.