
STATUTORY INSTRUMENTS

1998 No. 668

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Choice of
Medical Practitioner) Regulations 1998**

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

The Secretary of State for Health, in exercise of powers conferred on him by sections 15(1), 28F(1), (2) and (5), 29 and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Choice of Medical Practitioner) Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, unless the context otherwise requires—

- (a) “the 1977 Act” means the National Health Service Act 1977;
“the 1997 Act” means the National Health Service (Primary Care) Act 1997(2);
“doctor” means a registered medical practitioner;
“doctor’s list” means a list of a doctor’s patients kept by a Health Authority—
 - (i) in respect of a doctor providing general medical services, in accordance with regulation 19(3) of the GMS Regulations, or

(1) 1977 c. 49. See section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48), section 5(2); by the 1990 Act, section 12(1); and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 6. Section 28F is inserted (from 1st April 1998) by section 23(1) of the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”). Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the 1995 Act, Schedule 1, paragraph 18; and by the 1997 Act, Schedule 2, paragraph 8. Section 126(4) was amended by the 1990 Act, section 65(2).

(2) 1997 c. 46.

(3) Regulation 19 was amended by S.I. 1998/682.

- (ii) in respect of a doctor performing personal medical services in connection with a pilot scheme, in accordance with paragraph 3 of the Directions to Health Authorities Concerning Patient Lists (Personal Medical Services) made under section 6(1) of the 1997 Act;

“the **GMS Regulations**” means the National Health Service (General Medical Services) Regulations 1992**(4)**;

“**medical card**” means a card issued by a Health Authority to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services**(5)**, other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;

“**personal medical services**” has the meaning assigned to it in section 1(8) of the 1997 Act;

“**pilot scheme provider**” means a person, other than a Health Authority, who is a party to a pilot scheme;

“**pilot scheme**” has the meaning assigned to it in section 1(1) of the 1997 Act;

“**pooled list**” means a list of persons who have been accepted by a pilot scheme provider for the provision of personal medical services under the pilot scheme, and whose names are not included in a doctor’s list;

“**temporary resident**” shall be construed in accordance with regulation 7; and

- (b) “**child health surveillance services**”, “**contraceptive services**”, “**maternity medical services**” and “**minor surgery services**” have the meanings respectively assigned to them in the **GMS Regulations(6)**.

Procedure for choosing a doctor

2.—(1) Any person who wishes to receive primary medical services may choose the doctor from whom he is to receive those services (being a doctor who provides general medical services or who is primarily responsible for the performance of personal medical services under a pilot scheme**(7)**), subject to—

- (a) the consent of that doctor; and
 (b) any limit on the maximum number of persons whose names may be included in the doctor’s list of that doctor, imposed by regulation 24 of the **GMS Regulations** or, as the case may be, directions given under section 28F(3) of the 1977 Act**(8)**.

(2) Subject to paragraph (3), an application for inclusion of a person’s name in a doctor’s list shall be made by delivering to the doctor a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf.

(3) An application may be made (otherwise than by the doctor concerned)—

- (a) on behalf of any child—
 (i) by either parent, or in the absence of both parents, the guardian or other adult person who has the care of the child;

(4) S.I. 1992/635, amended by S.I. 1992/2412, 1993/540, 1993/2421, 1994/633, 1994/2620, 1994/3130, 1995/80, 1995/3093, 1996/702, 1997/730, 1997/981, 1997/2468 and 1998/682.

(5) “Primary medical services” is defined in section 28F(6) of the 1977 Act, inserted by section 23(1) of the 1997 Act.

(6) See regulation 2(1), to which there have been amendments which are not relevant to this regulation.

(7) As to such doctors (and the requirement that they must have a doctor’s list) see the Directions to Health Authorities Concerning the Implementation of Pilot Schemes (Personal Medical Services), made under section 6(1) of the 1997 Act, paragraphs 6 and 7 and Schedule 1, paragraph 17(1).

(8) No such directions had been given at the date on which these Regulations were made.

- (ii) by a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Children Act 1989⁽⁹⁾; or
 - (iii) by a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of that Act; or
- (b) on behalf of any adult person who is incapable of making such an application, or authorising such an application to be made on his behalf, by a relative or another adult person who has an interest in the welfare of that person.

Change of doctor

3.—(1) A person whose name is already included in a doctor's list, but who wishes to change doctor, may, in accordance with regulation 2, apply to another doctor who provides general medical services or performs personal medical services for inclusion of his name in the doctor's list of that other doctor.

(2) The Health Authority shall give notice in writing of any of the following events to all the persons whose names are included in a doctor's list—

- (a) the death of the doctor,
- (b) the fact that the doctor has ceased to provide general medical services under an arrangement with the Health Authority, otherwise than to enable him to perform personal medical services in the Health Authority's area;
- (c) the fact that the doctor has ceased to perform personal medical services in the Health Authority's area, otherwise than to enable him to provide a general medical services under an arrangement with the Health Authority.

(3) Where in any case in which the Health Authority is obliged to give notice under paragraph (2), a successor is appointed to the doctor's practice under Part III of the GMS Regulations or, as the case may be, a pilot scheme is varied to allow a named doctor to perform personal medical services as a successor to the first-named doctor (and the named doctor will be primarily responsible for the performance of personal medical services under a pilot scheme), the Health Authority shall in writing inform each person whose name is included in the doctor's list of the doctor who last carried on that practice—

- (a) of the name of the successor (and, if more than one, of each of them) and of the address of his (or, as the case may be, their) practice premises; and
- (b) that his name will be deemed to be included in the doctor's list of a named successor from a specified date and will be transferred to that list at the end of the period of 14 days beginning on that date unless, before the date on which the transfer is to occur, he gives notice in writing to the Health Authority that he does not wish his name to be included in that list.

(4) Where no such successor is to be appointed to a practice, the Health Authority shall notify the persons whose names are included in the doctor's list of the doctor who last carried on that practice of their right to apply to another doctor for acceptance.

Assignment of persons to doctors

4.—(1) Where—

- (a) a person whose name is not included in a doctor's list has been refused acceptance by a doctor for inclusion in his doctor's list;

(9) 1989 c. 41.

- (b) a person whose name is included in a doctor's list, but who wishes to change doctor, has been refused acceptance by a doctor for inclusion in his doctor's list; or
- (c) a person has applied to a doctor under regulation 7(1) to be accepted by him as a temporary resident and that application has been refused,

he may apply in writing to the Health Authority for assignment to a doctor.

- (2) On receipt of an application for assignment to a doctor, the Health Authority shall—
 - (a) subject to paragraph (4), assign the applicant to any doctor with whom the Health Authority has made arrangements for the provision of general medical services, and notify the doctor and the applicant accordingly; or
 - (b) require a pilot scheme provider to assign the applicant in accordance with regulation 5 to a doctor who performs personal medical services in connection with a pilot scheme to which the pilot scheme provider is a party.

(3) In deciding on the doctor to whom a person should be assigned or, as the case may be, the pilot scheme provider who should be required to make such an assignment, the Health Authority shall have regard to—

- (a) the respective distances between the person's residence and the practice premises of the doctors in the part of the Health Authority's area in question;
- (b) whether during the period of six months ending on the date on which the application for assignment is received by the Health Authority the person's name has been removed from the doctor's list of any doctor in that part of the area at the request of that doctor or, as the case may be, a pilot scheme provider; and
- (c) such other matters as the Health Authority considers to be relevant.

(4) No person may be assigned to a doctor by a Health Authority under this regulation without the consent of the Secretary of State, if the number of persons whose names are already included in the doctor's list of that doctor is equal to or greater than the maximum prescribed in relation to that doctor by regulation 24 of the GMS Regulations.

- (5) Where—
 - (a) the Secretary of State refuses his consent for the purposes of paragraph (4); or
 - (b) a pilot scheme provider is unable to comply, in accordance with regulation 5, with a requirement to assign an applicant to a doctor,

and the Health Authority is satisfied, after due enquiry, that the person concerned still wishes to be assigned to a doctor it shall as soon as practicable assign, or require the assignment of, that person to another doctor in accordance with the provisions of this regulation.

(6) A doctor to whom a person is assigned under this regulation or regulation 5 shall not be required to provide child health surveillance services, contraceptive services, maternity medical services or minor surgery services for that person, unless—

- (a) he has accepted him for the provision of such services under the GMS Regulations⁽¹⁰⁾; or
- (b) he is obliged to provide those services to him in connection with a pilot scheme.

- (7) Where—
 - (a) a doctor has requested the Health Authority to remove a person's name from his doctor's list under paragraph 9A of Schedule 2 to the GMS Regulations⁽¹¹⁾; or

⁽¹⁰⁾ See regulations 28, 29, 31 and 33 respectively.

⁽¹¹⁾ Paragraph 9A was inserted by [S.I. 1994/633](#).

(b) a pilot scheme provider has requested the Health Authority to remove a person's name from a doctor's list or a pooled list under corresponding provisions of a pilot scheme⁽¹²⁾, the Health Authority shall take all reasonable steps to assign, or to require the assignment of, the person to another doctor before the end of the working day after the day on which the Health Authority receives notification from the doctor or the pilot scheme provider under paragraph 9A(1) of Schedule 2 to the GMS Regulations or corresponding provisions of a pilot scheme, or as soon as possible thereafter; and the provisions of this regulation shall apply as if the person had applied for an assignment.

(8) The Health Authority may exempt from the liability to have persons assigned to him under this regulation any doctor who provides general medical services and who applies to the Health Authority for that purpose.

(9) In considering an application under paragraph (8) the Health Authority shall have regard to—

- (a) the doctor's age and state of health;
- (b) the number of persons whose names are included in his doctor's list; and
- (c) where the application relates only to a specified person whose name has previously been removed from his doctor's list, the circumstances of that removal,

and the Health Authority shall notify any such doctor in writing of any decision under this paragraph.

Assignment by a pilot scheme provider

5.—(1) A pilot scheme provider who is required under regulation 4(2)(b) to assign an applicant to a doctor shall (subject to paragraphs (3), (4) and (5) of this regulation) assign the applicant to a doctor within the period of two days beginning on the day on which he receives notice of the requirement to assign and shall, upon making that assignment, notify—

- (a) the Health Authority of the name of the doctor to whom the applicant has been assigned; and
- (b) the doctor of the assignment,

and the Health Authority shall, on receipt of notification under sub-paragraph (a), notify the applicant of the doctor to whom he has been assigned.

(2) In deciding on the doctor to whom a person should be assigned, the pilot scheme provider shall have regard to—

- (a) the respective distances between the person's residence and the practice premises of the doctors to whom he might assign that person (in this paragraph called "the relevant doctors");
- (b) whether within the period of six months ending on the date on which notice of the requirement to assign is received by the pilot scheme provider the person's name has been removed from the doctor's list of any of the relevant doctors at the request of the pilot scheme provider; and
- (c) such other matters as the pilot scheme provider considers to be relevant.

(3) No person may be assigned to a doctor under this regulation without the consent of the Secretary of State, if the number of persons whose names are already included in the doctor's list of that doctor is equal to or greater than any maximum imposed by directions given under section 28F(3) of the 1977 Act.

(4) A pilot scheme provider may not assign the applicant to a doctor if that assignment would contravene the terms of the pilot scheme, in particular as to—

(12) See the Directions to Health Authorities Concerning the Implementation of Pilot Schemes (Personal Medical Services), paragraph 11(3).

- (a) whether the doctor is to be primarily responsible for the performance of personal medical services; and
- (b) if so, the maximum number of persons who may be included in his doctor's list.

(5) A pilot scheme provider may seek to assign the applicant to a doctor in a case where the consent of the Secretary of State is required under paragraph (3) only if there is no other doctor to whom he could make an assignment in accordance with this regulation which would not require the consent of the Secretary of State.

- (6) A pilot scheme provider shall inform the Health Authority forthwith if—
- (a) he has sought the consent of the Secretary of State for the purposes of paragraph (3) and that consent has been refused; or
 - (b) he is unable to assign the applicant to any doctor without contravening the terms of the pilot scheme,

and shall, in each of those cases, provide personal medical services to the applicant (which provision need not include the services mentioned in regulation 4(6), unless the pilot scheme provider is obliged to provide those services to the applicant in connection with a pilot scheme) for the period of 14 days beginning on the day on which the pilot scheme provider so informs the Health Authority, or if the applicant is accepted by a doctor or another pilot scheme provider or assigned to a doctor within that period, until he is so accepted or assigned.

Representations against assignment or a requirement to assign

6.—(1) A doctor to whom a person has been assigned by the Health Authority may, within the period of seven days beginning on the day on which he receives notice of the assignment, make representations in writing to the Health Authority against that assignment, but shall remain responsible for the treatment of the person assigned to him, pending notification of the confirmation or revision of the assignment by the Health Authority.

(2) A pilot scheme provider who has been required under regulation 4(2)(b) to assign a person to a doctor may, within the period of seven days beginning with the day on which that assignment is made, make representations in writing to the Health Authority against the requirement to assign, but shall remain responsible for providing personal medical services for the person to whom the requirement relates, pending notification of the confirmation or revision of the assignment by the Health Authority.

(3) Where representations are made to it against an assignment or, as the case may be, a requirement to assign, the Health Authority shall, subject to paragraph (4), promptly review the decision to assign or to require assignment and shall either confirm or revise it, but no person who participated in making a decision to assign or to require assignment shall participate in a review of that decision.

(4) Where representations are made against a decision to assign or require assignment, the Health Authority shall, before confirming or revising that decision, give the doctor or, as the case may be, the pilot scheme provider, the opportunity of an oral hearing in support of those representations.

(5) The Health Authority shall, within the period of seven days beginning with the day on which it confirms or revises a decision under paragraph (3), notify the doctor or, as the case may be, the pilot scheme provider, accordingly and the provisions of these Regulations shall apply to any assignment or requirement to assign under a revised decision.

Temporary residents

- 7.—(1) A person requiring treatment who is—

- (a) temporarily residing away from his normal place of residence and is not included in the doctor's list of a doctor who practises in the vicinity of the place where he is temporarily residing, or a pooled list of doctors who practise in that vicinity; or
- (b) moving from place to place and not for the time being resident in any place,

may apply to any doctor who provides general medical services or is primarily responsible for the performance of personal medical services under a pilot scheme in the area in which he is temporarily resident, to be accepted by him as a temporary resident.

(2) For the purposes of paragraph (1), a person shall be regarded as temporarily resident in a place if, when he arrives in that place, he intends to stay there for more than 24 hours, but not more than three months.

Transfer of doctors between provision of general medical services and performance of personal medical services

8.—(1) Where a person has chosen a doctor from whom he is to receive general medical services and—

- (a) his name is included in the doctor's list of that doctor; or
- (b) he has been accepted for inclusion of his name in that doctor's list,

he shall, subject to regulation 3(1) and his right to withdraw from a doctor's list under regulation 23(1) of the GMS Regulations, continue to be included in the doctor's list of his chosen doctor notwithstanding that the doctor ceases to provide general medical services, in the circumstances specified in paragraph (2).

(2) The circumstances are where the doctor—

- (a) immediately starts to perform personal medical services in connection with a pilot scheme and one of the parties to that pilot scheme is a Health Authority which previously made arrangements with the doctor for the provision of general medical services; and
- (b) is primarily responsible for the performance of personal medical services under the pilot scheme.

(3) Where a person has chosen a doctor from whom he is to receive personal medical services and—

- (a) his name is included in the doctor's list of that doctor; or
- (b) he has been accepted for inclusion of his name in that doctor's list,

he shall, subject to regulation 3(1) and his right to withdraw from a doctor's list under paragraph 7 of the Directions to Health Authorities Concerning Patient Lists (Personal Medical Services) made under section 6(1) of the 1997 Act, continue to be included in the doctor's list of his chosen doctor notwithstanding that the doctor ceases to perform personal medical services, if the doctor immediately starts to provide general medical services by virtue of an arrangement made with him by the Health Authority which was a party to the pilot scheme in connection with which he previously performed personal medical services.

Frank Dobson
One of Her Majesty's Principal Secretaries of
State,
Department of Health

11th March 1998

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace provisions of the National Health Service (General Medical Services) Regulations 1992 (“the GMS Regulations”) relating to the right (which is now enshrined in section 28F of the National Health Service Act 1977 (“the 1977 Act”)) of any person to choose the doctor from whom he is to receive primary medical services. These Regulations make provision in relation to both doctors who provide general medical services under Part II of the 1977 Act, and doctors who perform personal medical services in connection with a pilot scheme under section 1(1) of the National Health Service (Primary Care) Act 1997.

The Regulations specify the procedures for applying to be included in a doctor’s list of patients (regulation 2) and for changing doctor (regulation 3). They also make provision for temporary residents, who are not included in the list of a doctor in the vicinity of the place where they are presently residing, to choose the doctor by whom they are to be treated (regulation 7). They confirm that a person who has chosen a particular doctor will, in certain circumstances, continue to be included in that doctor’s list of patients if the doctor transfers from the provision of general medical services to the performance of personal medical services or *vice versa* (regulation 8).

The Regulations make provision for assignment to a doctor of persons who have not chosen a doctor, or who have not been accepted for inclusion in the list of the doctor of their choice. A Health Authority is required either to assign such a person to a doctor who provides general medical services in its area, or to require a person who provides piloted services (“a pilot scheme provider”) to make an assignment to a doctor who performs personal medical services under the pilot scheme in question. The Regulations set out the matters to which the Health Authority or, as the case may be, the pilot scheme provider must have regard in making or requiring an assignment, and specifies circumstances in which an assignment may not be made to a particular doctor (regulations 4 and 5). They also provide for a doctor providing general medical services and a pilot scheme provider to make representations to the Health Authority about an assignment or, as the case may be, a requirement to assign a person to a doctor performing personal medical services (regulation 6).

The Directions to Health Authorities Concerning Patient Lists (Personal Medical Services) and the Directions to Health Authorities Concerning the Implementation of Pilot Schemes (Personal Medical Services) which are referred to in these Regulations can be obtained from:

Primary Care Division

Primary Care Act—Personal Medical Services Pilots

Room 7E60

NHS Executive Headquarters

Quarry House

Quarry Hill

Leeds LS2 7UE.

These Regulations impose no costs on business.