

SCHEDULE 1

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Interpretation

1. In this Schedule —

“the 2001 Rules” means the Family Health Services Appeal Authority (Procedure) Rules 2001(1);

“continuing matter” means any case, other than a case falling within paragraph 2, where the Initial Local Health Board had not get come to a decision on any matter, other than a matter falling within paragraph 8, under the Medical Regulations;

“Initial Local Health Board ” means a Local Health Board in whose medical list the general medical practitioner’s name was or had been included prior to 1st April 2004,

and terms used in this Schedule shall bear the same meaning that they have in Part 2.

Allocation of medical practitioners on previous lists

2. Subject to paragraph 7, in the case of a general medical practitioner, whose name, immediately before 1st April 2004, was included in a Local Health Board’s —

- (a) medical list, but was not included in the medical list of any other Local Health Board;
- (b) services list; or
- (c) supplementary list,

the general medical practitioner’s name shall, on that day, be included in its medical performers list.

3. Subject to paragraphs 6 and 8, in the case of a general medical practitioner, whose name, immediately before 1st April 2004 was included in the medical list of more than one Local Health Board, his or her name shall, on that day, be included in the medical performers list of the Local Health Board in whose area the greatest number of the patients on the list of that medical practitioner resided immediately before that day.

4. In a case to which paragraph 3 applies, if there is a doubt as to in which area the largest number of the patients on the list of that medical practitioner reside, the Local Health Boards involved shall agree between themselves, after considering any representations from the medical practitioner, as to in which medical performers list the medical practitioner shall be included.

5. In any case where the Local Health Boards are unable to agree between themselves, in accordance with paragraphs 4 or 6, as to in which Local Health Board’s medical performers list that medical practitioner shall be included the Assembly shall determine the matter, after considering any representations the medical practitioner made to any of those Local Health Boards.

6. Subject to paragraph 8, in the case of a general medical practitioner, whose name, immediately before 1st April 2004 was included in the medical list of more than one Local Health Board, and on that day will be a party to a scheme to provide primary medical service to more than one of those Local Health Boards, the medical practitioner shall choose in which list the name of the medical practitioner shall be included.

Status: This is the original version (as it was originally made).

Applications not decided on 1st April 2004

7. Subject to paragraph 8, in any case where there was any application, including an application which the Local Health Board has deferred, by a medical practitioner to a Local Health Board for the medical practitioner's name to be included in its medical list, service list or supplementary list and that application has not been decided before 1st April 2004, it shall be deemed to be an application to have the medical practitioner's name included in the medical performers list of that Local Health Board.

8. In a case where —

- (a) a medical practitioner has made an application to which paragraph 7 applies;
- (b) the medical practitioner's name was already included in a medical list, service list or supplementary list of any Local Health Board; and
- (c) the medical practitioner had not given notice of an intention to withdraw from that list with that application,

that application shall be void and the Local Health Board shall so notify the medical practitioner, informing the medical practitioner of the reason for that.

Matters relating to the medical practitioner

9. Subject to paragraphs 7 and 8, in a case falling within paragraph 2, any matter, question or proceeding relating to any medical practitioner under the Medical Regulations, the Services List Regulations or the Supplementary List Regulations, that had not been finally decided before 1st April 2004, shall be treated as though it had arisen in relation to the medical 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 Local Health Board.

10. In a case where the services list, supplementary list or any medical list, on which the medical practitioner's name was included immediately before 1st April 2004, contained, in relation to the medical practitioner, any condition or contingent removal, or if the medical practitioner was then suspended from that list, that condition, contingent removal or suspension, as the case may be, shall equally apply to the medical performers list in which the medical practitioner's name is included and any national disqualification shall apply to the medical performers list on and after 1st April 2004 as it did, in relation to any other list, before that date.

11. Subject to paragraph 12, 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 medical performers list in which that medical practitioner has been included or, but for that matter, would have been included.

12. In any case where there is a continuing matter and the medical performers list in which that medical practitioner's name is included is not that of the Initial Local Health Board, that matter shall proceed as though that name were included in the Initial Local Health Board's medical performers list.

Enhanced criminal record certificates

13.—(1) Where a medical practitioner's name has been included in a medical performers list of a Local Health Board pursuant to this Schedule, and —

- (a) it has not received an enhanced criminal record certificate under section 115 of the Police Act 1997(2) relating to the medical practitioner; and

(2) 1997 c. 50.

(b) the Assembly directs that the Local Health Board shall require such a certificate from any medical practitioner, whose name is included in its medical performers list, the medical practitioner shall, within 3 months of the Local Health Board notifying the medical practitioner of that requirement, provide that certificate to it.

(2) When sub-paragraph (1)(b) applies, the Local Health Board shall write to each such medical practitioner informing the medical practitioner that the medical practitioner is now under a duty to —

(a) provide it with such a certificate; and

(b) do so within the period of 3 months beginning with the date of that letter,

and, subject to sub-paragraph (3), if the medical practitioner has not provided it with such a certificate within that time, it shall remove the medical practitioner from its medical performers list.

(3) Local Health Board —

(a) shall extend the period prescribed in sub-paragraph (1), if the Assembly directs that an extension should be required in relation to all such cases or in such categories of case as it may set out in the directions; and

(b) may, if it thinks it is not reasonably practicable for that medical practitioner to provide it with such a certificate within the period of 3 months, beginning with the date of the letter under paragraph (2), as extended by reason of any direction to which head (a) applies, extend that period for such time as it considers appropriate in the circumstances of the case and shall notify that medical practitioner of that extension of time.

Appeals to the FHSAA under Part II of the 2001 Rules

14. Where —

(a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules on or after the 1st April 2004; and

(b) that notice of appeal concerns a disputed decision taken by a respondent Initial Local Health board before the 1st April 2004,

that Local Health Board shall continue to be the respondent, even if the medical practitioner's name is from 1st April 2004, included in the medical performer's list of a different Local Health Board.

15. Where —

(a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules before the 1st April 2004;

(b) that appeal concerns a disputed decision taken by a respondent Initial Local Health Board before the 1st April 2004; and

(c) it has not been finally determined before the 1st April 2004,

that Local Health Board shall continue to be the respondent, even if the medical practitioner's name is, from 1st April 2004, included in the medical performer's list of a different local Health Board.

Applications to the FHSAA under Part III of the 2001 Rules

16. Where the FHSAA —

(a) has received an application pursuant to Part III of the 2001 Rules before the 1st April 2004; and

(b) that application has not been finally determined before the 1st April 2004,

the parties to that application shall, from the 1st April 2004, continue to be the medical practitioner who was a party immediately before the 1st April 2004 and the Initial Local Health Board.

General matters relating to cases under Part IV of the 2001 Rules

17. Where a panel has —

- (a) pursuant to rule 32(1), 33, 44(2) or 45(2) of the 2001 Rules given any directions; or
- (b) pursuant to rule 37 of those Rules, varied any directions,

in relation to any appeal falling within paragraph 17, those directions or varied directions shall continue to apply to the Initial Local Health Board, even if the medical practitioner's name is, on and after 1st April 2004, included in the medical performer's list of a different Local Health Board.

18. Where a panel has, pursuant to rule 42 or 43 of the 2001 Rules, given a decision —

- (a) that decision shall continue to apply to the Initial Local Health Board; and
- (b) that Local Health Board, shall be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision.

19. Where the FHSAA has taken a decision before the 1st April 2004 which, by virtue of rule 46 of the 2001 Rules, it would, at the time it took that decision have been obliged to publish, that obligation shall continue on or after the 1st April 2004 if it has not published the decision immediately