

THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES) REGULATIONS 1992

Schedule 2

Terms of Service for Doctors

Important Note

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

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

Doctors' availability to patients

29. (1) Any doctor whose name is included in a medical list shall:
- (a) normally be available at such times and places as shall have been approved by the HA or, on appeal, by the Secretary of State in his case, in accordance with the requirements of the following provisions of this paragraph, following an application by the doctor; and
 - (b) inform his patients about his availability in such manner as the HA may require in accordance with sub-paragraph (16).
- (2) Subject to sub-paragraphs (3), (4), (5) and (6), the HA shall not approve any application submitted by a doctor in relation to the times at which he is to be available unless it is satisfied that:
- (a) the times proposed are such that the doctor will normally be available -
 - (i) in 42 weeks in any period of 12 months,
 - (ii) for no less than the number of hours in any such week which are specified in the condition imposed or treated as imposed in relation to him under regulation 15, and
 - (iii) on 5 days in any such week;
 - (b) the hours for which the doctor will normally be available in any week are to be allocated between the days on which he will normally be available in that week in such a manner as is likely to be convenient to his patients;
 - (c) where the doctor is a three-quarter-time doctor or a half-time doctor, he is practising in partnership with:
 - (i) another doctor whose name is included in the medical list and who is himself a fulltime doctor, or
 - (ii) two job-sharing doctors whose names are included in the medical list and whose hours are aggregated for the purpose of head (d) of this sub-paragraph;
 - (d) where the doctor is a job-sharing doctor:
 - (i) he is practising in partnership with another doctor whose name is included in the medical list, and

- (ii) the hours for which both doctors will normally be available will in aggregate be not less than 26 hours in any week referred to in head (a)(i) of this subparagraph.
- (3) On any application made pursuant to sub-paragraph (1) by a three-quarter-time doctor or a halftime doctor:
 - (a) head (a)(iii) of sub-paragraph (2) shall not apply; and
 - (b) any approval of the application shall be subject to the condition that the approval shall lapse after the expiry of a period of 6 months from that date on which that doctor ceases to satisfy head (c) of sub-paragraph (2).
- (4) On any application made pursuant to sub-paragraph (1) by a job-sharing doctor -
 - (a) head (a)(iii) of sub-paragraph (2) shall apply so as to require either the job-sharing, doctor or the other doctor referred to in sub-paragraph (2)(d) to be normally available on each of the days mentioned in that head; and
 - (b) any approval of the application shall be subject to the condition that the approval shall lapse after the expiry of a period of 6 months from the date on which the doctor ceases to satisfy sub-paragraph (2)(d).
- (5) On any application made pursuant to sub-paragraph (1) by a doctor who is a restricted list principal or a restricted services principal, sub-paragraph (2)(a)(i) and (iii), (c) and (d) shall not apply.
- (6) The HA may, in relation to the application of any full-time doctor who seeks normally to be available on only 4 days in any week referred to in sub-paragraph (2)(a)(i), excuse the doctor from the requirement of head (a)(iii) of that sub-paragraph and approve the application to the extent allowed by paragraph 30.
- (7) In this paragraph and in paragraph 30, "available" means, in relation to a doctor, available to provide general medical services to his patients, and for the purposes of calculating the time at which a doctor is to be regarded as available:
 - (a) account may be taken of any period when the doctor is attending at his practice premises or at any clinic provided by him for his own patients, and of any time spent making a domiciliary visit; but
 - (b) no account shall be taken of time spent by the doctor holding himself in readiness to make a domiciliary visit if required by any patient; and "availability" shall be construed accordingly.
- (8) An application by a doctor in relation to any place at which he is to be available shall not be approved by the HA unless it is satisfied that:
 - (a) the place at which the doctor proposes to be available is likely to be convenient to his patients;
 - (b) the location of that place is in accordance with any condition imposed in his case pursuant to section 33(4)(b) or (5) of the Act (distribution of general medical services).
- (9) An application for approval pursuant to sub-paragraph (1) shall be made in writing to the HA and shall:
 - (a) include the information specified in Part 1 of Schedule 8 to these Regulations; and
 - (b) where appropriate, also include:

- (i) in the case of a doctor to whom sub-paragraph (5) applies, the additional information specified in Part 11 of that Schedule,
 - (ii) in the case of a doctor to whom sub-paragraph (6) applies, the additional information Specified in Part III of that Schedule.
- (10) The HA shall determine an application within 28 days of receiving it.
- (11) In determining any application, the HA shall either:
 - (a) grant approval;
 - (b) grant approval subject to such conditions as the HA sees fit to impose for the purpose of securing that the doctor is available at such times and places as are convenient to his patients; or
 - (c) refuse approval.
- (12) The HA shall notify the doctor in writing of its determination, and, where it refuses an application or grants an application subject to conditions, it shall send the doctor a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (13).
- (13) A doctor may within 30 days of receiving, a notification pursuant to sub-paragraph (12) appeal in writing to the Secretary of State against any refusal of approval or against any condition imposed pursuant to sub-paragraph (11).
- (14) The Secretary of State may, when determining an appeal, either confirm the determination of the HA or substitute his own determination for that of the HA.
- (15) The Secretary of State shall notify the doctor in writing of his determination and shall in every case include with the notification a written statement of the reasons for the determination.
- (16) The HA may, as it considers appropriate, require a doctor to inform his patients, by displaying a notice at his practice premises or sending notices to them, about the times and places at which he is available.
- (17) A doctor may apply to the HA for a variation of the times and places at which, in accordance with a determination under this paragraph ("the earlier determination"), he is required to be normally available, and sub-paragraphs (2) to (15) shall apply to the making and determination ("the subsequent determination") of an application under this sub-paragraph as if it were the first application by that doctor for the purposes of this paragraph.
- (18) Where an application made under sub-paragraph (17) is approved or is approved subject to conditions, for the purposes of sub-paragraphs (1) and (16) the earlier determination mentioned in sub-paragraph (17) shall cease to have effect and the subsequent determination mentioned in that sub-paragraph shall have effect instead:
 - (a) where the subsequent determination is made by the HA and no appeal is made, from the day falling 8 weeks after the date on which the doctor receives notification of that HA's determination,
 - (b) where the subsequent determination is made on appeal, from the day failing 8 weeks after the date on which the doctor receives notification of the Secretary of State's determination.

- (19) Where it appears to the HA that a doctor's hours of availability are allocated for the purposes of sub-paragraph (2)(b) in a manner which may no longer be convenient to his patients, it may, subject to sub-paragraph (26), review the terms of:
- (a) any approval granted under sub-paragraph (11)(a) or (b); or
 - (b) any direction given under sub-paragraph (21)(a);
- by the HA or the Secretary of State as to such allocation.
- (20) On any review under sub-paragraph (19) the HA shall:
- (a) give notice to the doctor of its proposed re-allocation of his hours of availability; and
 - (b) allow him 30 days within which to make representations to the HA about its proposals.
- (21) After considering any representations made in accordance with sub-paragraph (20)(b), the HA shall either:
- (a) direct the doctor to revise the allocation of his hours of availability in the manner specified in the direction; or
 - (b) confirm that the existing allocation of the doctor's hours of availability continues to be convenient to his patients.
- (22) The HA shall notify the doctor in writing of its determination under sub-paragraph (21), and, where it gives a direction under head (a) of that sub-paragraph, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (23).
- (23) A doctor may, within 30 days of receiving notification under sub-paragraph (22), appeal in writing to the Secretary of State against a direction under sub-paragraph (21).
- (24) Sub-paragraphs (14) and (15) shall apply to any appeal made under sub-paragraph (23).
- (25) A doctor in respect of whom a direction is given under sub-paragraph (21) shall revise the allocation of his hours of availability so as to give effect to the direction:
- (a) where the direction is given by the HA and no appeal is made, not later than 8 weeks after the date on which he receives notification under sub-paragraph (22), or
 - (b) where the direction is given or confirmed on appeal, not later than 8 weeks after the date on which he receives notification of the Secretary of State's decision;
- and the allocation of hours as so revised shall be regarded as having been approved for the purposes of sub-paragraphs (1) and (16).
- (26) No HA shall undertake a review under sub-paragraph (19) on more than one occasion in any period of 2 years.

Availability to patients outside normal hours

- 29A (1) Subject to the provisions of this paragraph, a doctor may apply to the HA. for approval to treat patients at premises other than his practice premises outside the

hours for which he is normally available pursuant to paragraph 29 (in this paragraph referred to as "normal hours").

- (2) An application under sub-paragraph (1) shall be made in writing and shall state the address of the premises.
- (3) An application under sub-paragraph (1) shall not be approved by the -HA. unless it is satisfied that:
 - (a) having, regard to the fact that the premises are for the treatment of patients outside normal hours and to all other relevant circumstances, the premises to which the application relates are likely to be reasonably convenient to the doctor's patients; and
 - (b) the location of those premises is in accordance with any condition imposed in relation to the doctor making the application pursuant to section 33(4)(b) of the Act (distribution of general medical services).
- (4) Sub-paragraphs (10) to (15) of paragraph 29 shall apply to an application under sub-paragraph (1) of this paragraph as they apply to an application under paragraph 29(1).
- (5) Where the HA determines an application under sub-paragraph (1) by granting approval (with or without conditions), the doctor shall inform his patients by displaying a notice at his practice premises, stating the address of the premises for which approval has been granted.
- (6) A doctor may apply to the HA for a variation of any approval granted under this paragraph, and any such application shall be made and determined as if it were the first application for the purposes of this paragraph.
- (7) Where it appears to the HA., that premises which it has approved under this paragraph may no longer be reasonably convenient to the doctor's patients, it may give notice to the doctor that it proposes to review the terms of the approval.
- (8) On any review under sub-paragraph (7), the HA shall allow the doctor a period of 30 days beginning with the date on which he receives the notice within which to make representations to the HA about its proposals.
- (9) After considering any representations made in accordance with sub-paragraph (8), the HA may determine to:
 - (a) continue its approval;
 - (b) continue its approval subject to such new or varied conditions as it sees fit to impose; or
 - (c) withdraw its approval.
- (10) The HA shall notify the doctor in writing of its determination under sub-paragraph (9); and where it determines to withdraw its approval or to continue it subject to new or varied conditions, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (11).
- (11) A doctor may, within the period of 30 days beginning with the date on which he receives the notice referred to in sub-paragraph (10), appeal in writing to the

Secretary of State against the withdrawal of approval or against any condition imposed pursuant to sub-paragraph (9); and sub-paragraphs (14) and (15) of paragraph 29 shall apply to any such appeal as they apply to an appeal under that paragraphs [amended by SI 1995 No 80 wef 6/2/95]

Doctors available for only 4 days a week

30. (1) Subject to sub-paragraph (3), where the HA is satisfied that, by reason of a doctor's participation in health-related activities (other than the provision of general medical services to his patients), he would be likely to suffer an unreasonable degree of inconvenience if paragraph 29(2)(a)(iii) applied in his case, it may give its approval for the doctor normally to be available on only 4 days in any week referred to in sub-paragraph (2)(a) of that paragraph.
- (2) For the purposes of sub-paragraph (1), "health-related activities" means activities connected with:
- (a) the Organisation of the medical profession or the training of its members;
 - (b) the provision of medical care or treatment;
 - (c) the improvement of the quality of such care and treatment; or
 - (d) the administration of services under Part 1 of the Act or of arrangements pursuant to section 29 of the Act for the provision of general medical services,
- and in determining whether any activity is a health-related activity, the HA shall have regard to the illustrative list in Part IV of Schedule 8.
- (3) The HA shall not give its approval in accordance with sub-paragraph (1) if, in its opinion:
- (a) the effectiveness of the doctor's services to his patients is likely to be significantly reduced; or
 - (b) his patients are likely to suffer significant inconvenience, by reason of the doctor having been relieved from the requirements of paragraph 29(2)(a)(iii).
31. A doctor who:
- (a) intends to operate an appointments system;
 - (b) succeeds to a practice where such a system is in force; or
 - (c) joins a partnership operating such a system,
- shall notify the HA of any appointments system which he proposes to operate or, as the case may be, of any proposal to discontinue such a system.
32. (1) A doctor shall not, without the consent of the -HA., or, on appeal, the Medical Practices Committee, carry on practice at any house, flat, surgery, branch surgery, or other similar premises (referred to in this paragraph as "the practice premises") which have been previously occupied or used for the purpose of his practice by another doctor (referred to in this paragraph as "the former occupant") whose practice has been declared vacant -(including premises occupied or used by a pilot doctor where the declaration of a vacancy arises from the termination of the pilot scheme in question). [as amended by SI 1998 No 682 wef 1/4/98] and to whose practice a successor has been, or is to be, appointed; but this provision shall not apply:

- (a) where the former occupant or his executors or administrators has or have, in agreement with the HA made an offer to the successor on his appointment to sell or let to him the practice premises upon terms to be approved by the Medical Practices Committee and upon terms that the offer cannot be withdrawn within one month from the date on which the successor was appointed, and the successor has failed or refused to accept the offer before the expiry thereof,
- (b) where such an offer was made to the successor and accepted by him before its expiry and the approval of the Medical Practices Committee has been given to the terms of the proposed agreement;
- (c) after the expiry of a period of 12 months from the date on which the successor was appointed;
- (d) where the former occupant was a member of a partnership and the doctor concerned is another member of the partnership who acquires the practice premises in accordance with the terms of a partnership agreement which has been in operation for a period of 12 months before the date on which notice of the former occupant's intended retirement was given to the HA concerned, or the date of the former occupant's death; or
- (e) where the doctor is using the practice premises in consequence of temporary arrangements for the carrying on of the practice made either under regulation 25 or by agreement between the former occupant or his executors or administrators and the successor pending the approval of the Medical Practices Committee to a proposed sale or lease of the practice premises to the successor.

(2) In this paragraph "successor" means the doctor approved or nominated by a Health Authority in accordance with regulation 18A, 18B, 18C or 18I, and "the date on which the successor was appointed" means the date on which the successor is notified of such nomination or approval, or where an appeal lies to the Secretary of State under regulation 18G -

- (a) the date on which the successor is notified that no appeal has been made to the Secretary of State, or
- (b) in the event of an appeal, the date on which the successor is notified of the Secretary of State's decision to dismiss the appeal. [as amended by SI 1998 No 2838 wef 10/12/98]

33. (1) Subject to sub-paragraph (2), a doctor shall not, without the consent of the HA or, on appeal, the Medical Practices Committee, start to practise at any house, flat, surgery, branch surgery or other similar premises (referred to in this paragraph as "the practice premises ") within 1 year of their having ceased to be occupied or used for the purpose of his practice by another doctor (referred to in this paragraph as "the former occupant") who was within one month of such cessation practising at group practice premises as a member of a group, or at accommodation made available by the Secretary of State, (or, in the case of a pilot doctor, at premises used for the purposes of the pilot scheme in question) [as amended by SI 1998 No 682 wef 1/4/98] and less than 3 miles away (in either case) from the practice premises.

(2) Sub-paragraph (1) shall not apply:

- (a) where the former occupant gives written consent to another doctor to use the practice premises;

- (b) after the former occupant has (or if there was more than one former occupant, all the former occupants have) ceased to practise as a member of a group at the group practice premises, or at accommodation made available by the Secretary of State -or at premises used for the purposes of the pilot scheme in question 4 [as amended by SI 1998 No 682 wef 1/4/98]; or
 - (c) to any of the former occupants who has ceased to practise at such premises as are mentioned in sub-paragraph (2)(b).
- (3) In this paragraph "group practice premises" means premises where practice is wholly or mainly carried on by a group practice.