STATUTORY RULES OF NORTHERN IRELAND

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*

The Department of Health, Social Services and Public Safety(**1**), in exercise of the powers conferred upon it by Articles 5 and 11 of the Primary Medical Services (Northern Ireland) Order 2004(**2**) 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(**3**);

"the 1991 Order" means the Health and Personal Social Services (Northern Ireland) Order 1991(**4**);

"the 1997 Regulations" means the General Medical Services Regulations (Northern Ireland)1997(**5**);

"the 2003 Order" means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**6**);

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

(**1**) *See*S.I. 1999/283 (N.I. 1) Article 3(6)
(**2**) S.I. 2004/311 (N.I. 2)
(**3**) S.I. 1972/1265 (N.I. 14)
(**4**) S.I. 1991/194 (N.I. 1)
(**5**) S.R. 1997 No. 380
(**6**) S.I. 2003/1250

"the 2004 Regulations" means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(**7**);

"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(**8**);

"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;

"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(**9**), 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(**10**);

(b) from that date, a committee recognised under Article 55B of that Order(**11**);

"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(**12**);

"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;

(**7**) S.R. 2004 No. 140
(**8**) S.R. 1998 No. 412
(**9**) 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)
(**10**) 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
(**11**) Article 55B was inserted into the 1972 Order by paragraph 9 of Schedule 1 to the 2004 Order
(**12**) S.R. 2004 No. 141

"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(**13**);

"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.

PART 2

TRANSTIONAL 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 –

(**13**) S.R. 2004 No. 149

(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(**14**) 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

(**14**) Paragraph 5 was amended by S.R. 1999 No. 100

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(**15**) 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,

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);

(**15**) Paragraph 9 was amended by S.R. 1999 No. 100