STATUTORY RULES OF NORTHERN IRELAND

1998 No. 412

HEALTH AND PERSONAL SOCIAL SERVICES

The Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998

Made - - - -	*19th November 1998*
Coming into operation	*1st April 1999*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 15E(1) and (2), 95 and 106(*b*) of the Health and Personal Social Services (Northern Ireland) Order 1972(**1**), and of all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health Services (Choice of Medical Practitioner) Regulations (Northern Ireland) 1998 and shall come into operation on 1st April 1999.

(2) In these Regulations–

"the 1972 Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"the 1997 Order" means the Health Services (Primary Care) (Northern Ireland) Order 1997(**2**);

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

"board" means a Health and Social Services Board;

"child health surveillance services" means the services described in regulation 27 of, and paragraph 1 of Schedule 4 to, the GMS Regulations;

"contraceptive services" means the services described in regulation 3(1)(*c*) of the GMS Regulations;

"doctor" means a medical practitioner;

"doctor's list" means a list of a doctor's patients kept by the Agency–

(i) in respect of a doctor providing general medical services, in accordance with regulation 18 of the GMS Regulations, or

(**1**) S.I.1972/1265 (N.I. 14). Article 15E was inserted by Article 23 of S.I. 1997/1177 (N.I. 7)
(**2**) S.I. 1997/1177 (N.I. 7)

(ii) in respect of a doctor performing personal medical services in connection with a pilot scheme, in accordance with directions given under Article 8(1) of the 1997 Order(**3**);

"the GMS Regulations" means the General Medical Services Regulations (Northern Ireland) 1997(**4**);

"maternity medical services" means the services described in regulation 34 of, and Schedule 7 to, the GMS Regulations;

"medical card" means a card issued to a person, in a form approved by the Department, for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;

"minor surgery services" means the services described in regulation 36 of, and Schedule 7 to, the GMS Regulations;

"personal medical services" has the meaning assigned to it in Article 3(7) of the 1997 Order;

"pilot scheme" has the meaning assigned to it in Article 3(1) of the 1997 Order;

"pilot scheme provider" means a person, other than a board, who is a party to a pilot scheme;

"pooled list" means a list of person 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;

"primary medical services" means the services described in Article 15E(5) of the 1972 Order(**5**); and

"temporary resident" shall be construed in accordance with regulation 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(**6**)), 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 23 of the GMS Regulations or, as the case may be, directions given under Article 15E(3) of the 1972 Order(**7**).

(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, by either parent or, in the absence of both parents, the guardian or other adult person who has the care of the child; or

(b) on behalf of any person under 18 years of age who is–

(**3**) *See* paragraph 3 of the directions to Health and Social Services Boards and the Central Services Agency concerning patient lists (personal medical services), given by the Department of Health and Social Services on 19th November 1998
(**4**) S.R. 1997 No. 380; as amended by S.R. 1998 No. 9
(**5**) Article 15E was inserted by Article 23 of S.I. 1997/1177 (N.I. 7)
(**6**) As to such doctors (and the requirement that they must have a doctor's list) *see* the directions to Health and Social Services Boards concerning the implementation of pilot schemes (personal medical services), given by the Department of Health and Social Services on 19th November 1998
(**7**) No such directions had been given at the time these Regulations were made

(i) in the care of an authority in whose care he has been placed under the provisions of the Children (Northern Ireland) Order 1995(**8**), by a person duly authorised by that authority; or

(ii) in the care of a voluntary organisation, by that voluntary organisation or a person duly authorised by it; or

(iii) in a training school, by the manager of that training school; or

(c) on behalf of any person who is incapable of making such an application, or authorising such an application to be made on his behalf, by a relative or other adult person who has the care of such 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 Agency 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 board, otherwise than to enable him to perform personal medical services in the board's area;

(c) the fact that the doctor has ceased to perform personal medical services in the board's area, otherwise than to enable him to provide general medical services under an arrangement with the board.

(3) Where in any case in which the Agency is obliged to give notice under paragraph (2), a successor is appointed to the doctor's practice under Part II 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 the pilot scheme), the Agency 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 Agency 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 Agency 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; or

(**8**) S.I. 1995/755 (N.I. 2)

(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 6(1) to be accepted by him as a temporary resident and that application has been refused,

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

(2) On receipt of an application for assignment to a doctor, the Agency shall–

(a) subject to paragraph (4), assign the applicant to any doctor with whom a board 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 Agency 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 board'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 Agency 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 Agency considers to be relevant.

(4) No person may be assigned to a doctor by the Agency under this regulation without the consent of the Department, 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 23 of the GMS Regulations.

(5) Where–

(a) the Department refuses its 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 Agency is satisfied, after due inquiry, 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(**9**); 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 Agency to remove a person's name from his doctor's list under paragraph 10 of Schedule 2 to the GMS Regulations; or

(b) a pilot scheme provider has requested the Agency to remove a person's name from a doctor's list or a pooled list under corresponding provisions of a pilot scheme(**10**),

(**9**) *See* regulations 27, 28, 34 and 36 respectively

(**10**) *See* paragraph 11(3) of the directions to Health and Social Services Boards concerning the implementation of pilot schemes (personal medical services), given by the Department of Health and Social Services on 19th November 1998