1989 No. 454

HEALTH AND PERSONAL SOCIAL SERVICES

General Medical and Pharmaceutical Services (Amendment No. 2) Regulations (Northern Ireland) 1989

Made . . . . . 24th November 1989

Coming into operation in accordance with regulation 1(2) for certain purposes — *15th December 1989*
for certain other purposes — *1st January 1990*
for all remaining purposes — *1st April 1990*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 56, 63, 106 and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and Article 4 of the Health and Medicines (Northern Ireland) Order 1988(**b**) and of all other powers enabling it in that behalf and in conjunction with the Department of Finance and Personnel(**c**) and after consultation with such organisations as appeared to the Department to be representative of the Medical and Pharmaceutical professions as required by Articles 56(5) and 63(3) of the said 1972 Order, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the General Medical and Pharmaceutical Services (Amendment No. 2) Regulations (Northern Ireland) 1989.

(2) These regulations shall come into operation:—

(*a*) for the purposes of regulations 1, 5(*c*), 6, 10, 11, 17 and 18(3), on 15th December 1989;

(*b*) for the purposes of regulations 3(*b*) (to the extent that it relates to paragraph 16A of Schedule 1, and to Schedule 1C, of the principal regulations), 4 (to the extent that it inserts regulations 3A(1) to (10) and (16) and 3B(1) to (10) and (16) into the principal regulations), 15 (to the extent that it relates to paragraph 11 of Schedule 1) and 16 (to the extent that it relates to Schedules 4, 5 and 8), on 1st January 1990;

(*c*) for all other purposes on 1st April 1990.

(**a**) S.I. 1972/1265 (N.I. 14). As amended by S.I. 1978/1907 (N.I. 26), S.I. 1981/432, S.I. 1986/2023 (N.I. 20), S.I. 1986/2229 (N.I. 24), S.R. 1987 No. 457 and S.I. 1988/2249 (N.I. 24)
(**b**) S.I. 1988/2249 (N.I. 24)
(**c**) Formerly Department of Finance; *see* S.I. 1982/338 (N.I. 6) Art. 3

(3) In these regulations "the principal regulations" means the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973(**a**).

Amendment of regulation 2 of the principal regulations

2. In regulation 2(1) (interpretation) of the principal regulations—

(*a*) the following definitions shall be inserted at the appropriate points in the alphabetical order—

" "child" means a person who has not attained the age of 16 years;

"child health surveillance list" means a list of doctors maintained by the Agency pursuant to regulation 3A(1);

"child health surveillance services" means the personal medical services described in paragraph 4B of the terms of service and Schedule 1E;

"domiciliary visit" means a visit to either the place where the patient resides or the place, other than the doctor's practice premises, where the doctor is obliged, pursuant to paragraph 8A of the terms of service, to render personal medical services to the patient;

"group practice" means an association of not less than two doctors both or all of whom—

(*a*) have their names included in the medical list;

(*b*) co-ordinate, in the course of regular contact between them, their respective obligations under the terms of service for doctors to provide personal medical services to their patients; and

(*c*) conduct and manage their practices from at least one common set of practice premises;

"Local Directory" means the Local Directory of Family Doctors maintained by a Board pursuant to regulation 4A;

"medical records" means, in relation to any patient, the records maintained in respect of that patient pursuant to paragraph 12 of the terms of service;

"minor surgery list" shall be construed in accordance with regulation 3B(1);

"minor surgery services" means the personal medical services described in paragraph 4C of the terms of service and Schedule 1F;

"parent" includes any adult person who, in the opinion of the doctor, is for the time being fulfilling the obligations normally attaching to a parent in respect of his child;

"practice premises" means in relation to any doctor, the premises at which he is obliged under the terms of service to attend at specified times in order to be consulted by, or to provide treatment or services for, his patients;

(a) S.R. & O. (N.I.) 1973 No. 421. The relevant amending regulations are S.R. 1975 No. 180, S.R. 1983 No. 182, S.R. 1985 No. 69, S.R. 1985 No. 131, S.R. 1985 No. 318, S.R. 1986 No. 65, S.R. 1986 No. 170, S.R. 1986 No. 289, S.R. 1987 No. 1, S.R. 1987 No. 247, S.R. 1987 No. 323, S.R. 1988 No. 246 and S.R. 1989 No. 11

"restricted list principal" means a doctor who has undertaken to provide general medical services only to a restricted category of patients identified by reference to their connection with a particular establishment or organisation;

"restricted services principal" means a doctor who has undertaken to the Board to provide general medical services limited to—

(*a*) child health surveillance services;

(*b*) contraceptive services;

(*c*) maternity medical services; or

(*d*) minor surgery services;

"the Tribunal" means the Tribunal constituted under Article 46 of the Order,"

or to any combination of the above;";

(*b*) in the definition of "treatment"—

(i) for the words "contraceptive services or maternity medical services" there shall be substituted the words "child health surveillance services, contraceptive services, maternity medical services or minor surgery services",

(ii) for the word "woman" there shall be substituted the word "person".

Amendment of regulation 3 of the principal regulations

3. In regulation 3 of the principal regulations (scope of services)—

(*a*) In paragraph (1) after sub-paragraph (*b*) there shall be inserted the following sub-paragraph:—

"(*bb*) the provision by doctors of child health surveillance services and minor surgery services;"

(*b*) in paragraph (2) at the end there shall be added the words "and Schedules 1G, 1H and 1I shall have effect for the purposes of paragraphs 11A, 16A and 20 respectively of the terms of service.".

Insertion of new regulations 3A and 3B into the principal regulations

4. After regulation 3 of the principal regulations there shall be inserted the following regulations:—

"*Child health surveillance list*

3(A).—(1) The Agency shall, from information obtained from the Boards, on and after 1st April 1990, maintain a list (in these regulations referred to as "a child health surveillance list") of the names of those doctors who have satisfied the Board or, on appeal, the Department, in accordance with the following provisions of this regulation, that they have such medical experience and training as are necessary to enable them properly to provide child health surveillance services.

(2) A doctor may apply, in accordance with paragraph (3), to a Board for the inclusion of his name in the child health surveillance list maintained by the Agency.

(3) An application for the purpose of paragraph (2) shall be made in writing and shall include the information specified in Schedule 1C.

(4) Unless the doctor otherwise agrees, the Board shall determine an application made in accordance with paragraph (3) within 2 months of receiving it.

(5) The Board may, if it thinks fit, hold an oral hearing of any application and shall not refuse an application without giving the doctor an opportunity of an oral hearing.

(6) When determining an application the Board shall have regard in particular to—

(*a*) any training undertaken by the doctor; and

(*b*) any medical experience gained by him,

during the period of five years immediately preceding the date of the application, which is relevant to the provision of child health surveillance services, and shall seek and take into account any medical advice it considers necessary to enable it to determine the application.

(7) The Board shall determine an application by either—

(*a*) granting the application, or

(*b*) refusing the application.

(8) The Board shall give notice in writing to the doctor of its determination and shall—

(*a*) where it refuses the application, so inform him of the reasons for the determination and of his right of appeal under paragraph (9);

(*b*) where it grants the application, include the doctor's name in the child health surveillance list.

(9) If an application is refused the doctor may appeal in writing to the Department within 90 days of receiving notice in writing of the Board's determination.

(10) On any appeal pursuant to paragraph (9), the Department—

(*a*) may, if it thinks fit, hold an oral hearing of the appeal;

(*b*) in determining the appeal, shall either confirm or reverse the determination of the Board;

(*c*) where it reverses the determination of the Board, shall direct that the Board include the doctor's name in the child health surveillance list.

(11) Subject to paragraphs (12) to (16), a doctor's name may be removed by the Board from the child health surveillance list only if—

(*a*) it has been removed from the medical list pursuant to regulation 4B or 4E;

(*b*) the Board has determined that the doctor has not provided child health surveillance services at any time during the past 5 years;

(*c*) the Board has determined that the doctor has, in relation to any patient in respect of whom he has undertaken to provide child health surveillance services, failed, in a material respect, to comply with any requirement of paragraph 4B of the terms of service or Schedule 1E;

(*d*) the Board has determined that the doctor is no longer able to provide child health surveillance services.

(12) Before making any determination under sub-paragraph (*b*), (*c*) or (*d*) of paragraph (11) the Board shall—

(*a*) give the doctor 28 days written notice of its intention to do so, and

(*b*) afford the doctor an opportunity of making representations in writing or, if he so desires, orally to the Board.

(13) Where the Board makes a determination under sub-paragraph (*b*), (*c*) or (*d*) of paragraph (11), it shall send to the doctor a notice which shall include a statement—

(*a*) to the effect that, subject to any appeal under paragraph (14), the doctor's name will, after 28 days from the date of notice, be removed from the child health surveillance list maintained by the Agency;

(*b*) of the Board's reasons for its determination; and

(*c*) of the doctor's right of appeal under paragraph (14).

(14) A doctor who has received a notice in accordance with paragraph (13) may, within 21 days of receiving it, appeal to the Department against the determination of the Board, and pending the determination of the appeal the Board shall not remove his name from the child health surveillance list.

(15) An appeal to the Department shall be made in writing and shall include a statement of the facts and contentions on which the doctor intends to rely; and on any such appeal the Department shall, if it allows the appeal, direct that the Board shall not remove the doctor's name from the child health surveillance list.

(16) The Board shall comply with any direction given to it under this regulation.

Minor surgery list

3(B).—(1) The Agency shall, from information obtained from the Boards, on and after 1st April 1990 maintain a list (in these regulations referred to as "the minor surgery list") of the names of those doctors who have satisfied the Board or, on appeal, the Department in accordance with the following provisions of this regulation that they have such medical experience, training and facilities as are necessary to enable them properly to provide minor surgery services.

(2) A doctor may apply, in accordance with paragraph (3), to a Board for the inclusion of his name in the minor surgery list maintained by the Agency.

(3) An application for the purpose of paragraph (2) shall be made in writing and shall include the information specified in Schedule 1D.

(4) Unless the doctor otherwise agrees the Board shall determine an application made in accordance with paragraph (3) within 2 months of receiving it.