

SCHEDULE 12

PART 2

Transitional provisions relating to the National Health Service (Service Committees and Tribunal) Regulations 1992

Interpretation

6. In this Part—

“appropriate Primary Care Trust” has the same meaning as in regulation 2(1) of the 1992 Regulations;

“list” means a dental list, medical list, ophthalmic list, or pharmaceutical list within the meaning of regulation 2(1) of the 1992 Regulations;

“multiple list practitioner” means a practitioner who—

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of two or more relevant Primary Care Trusts in accordance with the provisions of Part 1 of this Schedule, or
- (b) having been included in a particular Health Authority’s list at the relevant time, would, if he had been included in that Health Authority’s list immediately before the relevant date, be included in the list of two or more relevant Primary Care Trusts in accordance with the provisions of Part 1 of this Schedule;

“the 1992 Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992(1);

“relevant Primary Care Trust” means a Primary Care Trust—

- (a) in whose list the practitioner’s name is included on the relevant date pursuant to Part 1 of this Schedule, or
- (b) in whose list the practitioner’s name would have been included pursuant to Part 1 of this Schedule if, on the relevant date, his name had remained on the Health Authority list that his name was included in at the relevant time;

“relevant time” has the same meaning as in regulation 4(8) of the 1992 Regulations;

“single list practitioner” means a practitioner who—

- (a) by virtue of being included in a particular Health Authority’s list immediately before the relevant date, is included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule, or
- (b) having been included in a particular Health Authority’s list at the relevant time, would, if he had been included in that Health Authority’s list immediately before the relevant date, be included in the list of one relevant Primary Care Trust on the relevant date pursuant to Part 1 of this Schedule.

Cases where no decision has been made by the relevant date as to whether disciplinary action should be taken (regulation 4 of the 1992 Regulations)

7. Where, before the relevant date, a Health Authority—

(1) S.I. 1992/664. Regulations 3 and 5 were substituted by S.I. 1996/703 and regulation 15 was modified by S.I. 1996/971.

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- (a) has received information that could amount to an allegation that a practitioner has failed to comply with his terms of service;
- (b) has not taken a decision, pursuant to regulation 4(1) of the 1992 Regulations, as to whether it will take no action or take one or both of the courses of action set out in regulation 4(2) of the 1992 Regulations; and
- (c) any time limit specified in regulation 6 of the 1992 Regulations has not expired before the relevant date,

paragraph 8 shall apply.

8. Where this paragraph applies, a Strategic Health Authority that has in its possession the information specified in paragraph 7(a) shall, as soon as is reasonably practicable, provide that information to—

- (a) in the case of a single list practitioner, the relevant Primary Care Trust; or
- (b) in the case of a multiple list practitioner, one of the relevant Primary Care Trusts that the relevant Primary Care Trusts have nominated from amongst themselves,

and that relevant Primary Care Trust shall, on and after the relevant date, be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

9. Where a Health Authority has, before the relevant date—

- (a) appointed a reference committee under regulation 3(4) of the 1992 Regulations; and
- (b) referred a matter to that reference committee which has not been finally determined before the relevant date,

that committee shall take no further steps in the matter and paragraph 10 shall apply.

10. Where this paragraph applies—

- (a) in the case of a single list practitioner, the relevant Primary Care Trust; or
- (b) in the case of a multiple list practitioner, one of the relevant Primary Care Trusts that the relevant Primary Care Trusts have nominated from amongst themselves,

shall be deemed, on and after the relevant date, to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations and shall determine what further action, if any, should be taken in accordance with the 1992 Regulations.

Referrals to investigating discipline committees before the relevant date (regulation 5 of the 1992 Regulations)

11. Where a Health Authority (A) has, before the relevant date, referred a matter to another Health Authority (B) in accordance with regulation 4(2)(a) or (7) of the 1992 Regulations and that matter has not been finally determined by the discipline committee of that Health Authority (B) before the relevant date—

- (a) where the matter relates to a single list practitioner, the relevant Primary Care Trust (A), shall, on and after the relevant date, be deemed to have referred the matter under that regulation; or
- (b) where the matter relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate one Primary Care Trust (A) from amongst themselves who will, on and after the relevant date, be deemed to have referred the matter,

and any acts done by the Health Authority (A) in relation to that matter shall be deemed to have been done by the relevant Primary Care Trust (A) that is deemed to have referred the matter pursuant to sub-paragraph (a) or (b), and that Primary Care Trust (A) shall, on and after the relevant date,

be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

12. Paragraph 13 applies where—

- (a) before the relevant date, a Health Authority (B) has had a matter referred to it by another Health Authority (A) pursuant to regulation 5 of the 1992 Regulations; and
- (b) the investigation by the discipline committee of the Health Authority (B) has not taken place or been completed before the relevant date.

13. Where this paragraph applies—

- (a) the discipline committee appointed by the Health Authority (B), whether or not it is a discipline committee jointly appointed within the meaning of regulation 3(3) of the 1992 Regulations, shall be deemed to be the discipline committee of another Primary Care Trust (B) that is nominated for this purpose by the relevant Primary Care Trust (A) that is deemed to have referred the matter pursuant to paragraph 11;
- (b) any Primary Care Trust (B) nominated pursuant to sub-paragraph (a) shall be within the locality of the Health Authority (B); and
- (c) any acts done by Health Authority (B) in relation to the discipline committee before the relevant date shall be deemed, on and after the relevant date, to have been done by the Primary Care Trust (B) nominated by the relevant Primary Care Trust (A) pursuant to sub-paragraph (a).

14. Where a Health Authority (A) has not, before the relevant date, determined what action it will take in relation to a practitioner as a consequence of a report that has been produced by a discipline committee of a Health Authority (B)—

- (a) where the report relates to a single list practitioner, the relevant Primary Care Trust (A) shall determine what action should be taken in accordance with regulation 8 of the 1992 Regulations; or
- (b) where the matter relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate from amongst themselves the Primary Care Trust (A) that will determine what action should be taken in accordance with regulation 8 of the 1992 Regulations,

and any acts done by the Health Authority (A) in relation to that matter before the relevant date shall be deemed to have been done by that relevant Primary Care Trust (A), and that relevant Primary Care Trust (A) shall be deemed to be, on and after the relevant date, the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that matter.

15. Where a Health Authority has before the relevant date made a determination as to what action should be taken against, or what measure should be imposed on, a practitioner pursuant to regulation 8 of the 1992 Regulations, but that action has not been taken or completed, or that measure remains in place, immediately before the relevant date—

- (a) where the action or measure relates to a single list practitioner, the relevant Primary Care Trust shall take or compete that action, or be deemed to have imposed that measure, in accordance with regulation 8 of the 1992 Regulations; or
- (b) where the action or measure relates to a multiple list practitioner, a relevant Primary Care Trust that is nominated by the relevant Primary Care Trusts from amongst themselves shall take or complete that action, or be deemed to have imposed that measure, in accordance with regulation 8 of the 1992 Regulations,

and any acts done by the Health Authority in relation to that determination before the relevant date shall be deemed to have been done by that relevant Primary Care Trust, and that relevant Primary Care Trust shall be deemed to be, on and after the relevant date, the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that action or measure.

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Appeals to the Secretary of State against determinations of Health Authorities taken before the relevant date (regulation 9 of the 1992 Regulations)

16. Where a practitioner has appealed against a determination of a Health Authority in accordance with regulation 9 of the 1992 Regulations, or he has not appealed before the relevant date but he subsequently does so within the time limit specified in regulation 9(2)—

- (a) where the appeal is made by a single list practitioner, the relevant Primary Care Trust (A) shall be deemed to have made that determination; or
- (b) where the appeal relates to a multiple list practitioner, the relevant Primary Care Trusts shall nominate from amongst themselves a relevant Primary Care Trust who shall be deemed to have made that determination,

and the relevant Primary Care Trust that is deemed to have made the determination pursuant to sub-paragraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority that relate to that determination and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that appeal.

17. Where, before the relevant date, the Secretary of State has determined an appeal and given notice in writing of his determination to a Health Authority pursuant to regulation 11(5) or 12(4) of the 1992 Regulations, that determination shall be deemed to apply to—

- (a) where the determination is made in relation to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination is made in relation to a multiple list practitioner, a relevant Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and the relevant Primary Care Trust that is deemed to be subject to that determination pursuant to sub-paragraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority that relate to that determination and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that determination.

18. Where, before the relevant date, the Secretary of State has directed a Health Authority (A), pursuant to regulation 11(6) of the 1992 Regulations, to recover an amount from a practitioner, and that amount has not been fully recovered before the relevant date, that direction shall be deemed to apply to—

- (a) where the direction relates to a single list practitioner, the relevant Primary Care Trust (A); or
- (b) where the direction relates to a multiple list practitioner, a relevant Primary Care Trust (A) that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and the relevant Primary Care Trust (A) that is deemed to be subject to that direction pursuant to sub-paragraph (a) or (b) shall also be deemed to have done any other acts of the Health Authority (A) that relate to that direction and shall be deemed to be the appropriate Primary Care Trust for the purposes of the 1992 Regulations in respect of that direction.

19. Where paragraph 18 applies, any debt to be recovered by the relevant Primary Care Trust, to the extent that it is not recovered by deduction from the practitioner's remuneration, shall be, for the purposes of regulation 11(9) of the 1992 Regulations, a debt owed to that relevant Primary Care Trust.

Excessive prescribing matters referred to a professional committee before the relevant date (regulation 15 of the 1992 Regulations)

20. A professional committee appointed by a Health Authority under regulation 15 of the 1992 Regulations may exercise any relevant function under that regulation, in relation to any matter which was referred to it before, and not finally dealt with by, the relevant date, as if it were a committee appointed by a Primary Care Trust determined in accordance with paragraph 21.

21. For the purposes of paragraph 20, the professional committee shall be deemed to be—

- (a) where the question concerning excessive prescribing relates to a single list practitioner, a professional committee appointed by the relevant Primary Care Trust; or
- (b) where the question concerning excessive prescribing relates to a multiple list practitioner, a professional committee appointed by a Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

and any action taken by the Health Authority before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust.

22. Where a professional committee has, before the relevant date, made a determination that an amount should be recovered from a practitioner pursuant to regulation 15(15) of the 1992 Regulations but the Health Authority who appointed that professional committee has not fully recovered that amount from the practitioner before the relevant date—

- (a) where the determination relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination relates to a multiple list practitioner, a relevant Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

shall be deemed to be subject to that determination and shall be entitled to recover the amount outstanding pursuant to regulation 15 of the 1992 Regulations.

23. Where a doctor has appealed under regulation 15(19) of the 1992 Regulations and that appeal has not been finally determined before the relevant date, or he has not appealed by the relevant date but he does so before the expiry of the time limit specified in regulation 15(19) of the 1992 Regulations—

- (a) where the question concerning excessive prescribing relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the question concerning excessive prescribing relates to a multiple list practitioner, the Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

shall, on and after the relevant date, be deemed to have referred the matter to the professional committee that made the determination appealed against and any action taken by the Health Authority before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust.

24. Where the appeal body has, before the relevant date, made a determination that an amount should be recovered from a practitioner pursuant to regulation 15(28) of the 1992 Regulations but a Health Authority has not fully recovered that amount from the practitioner before the relevant date—

- (a) where the determination relates to a single list practitioner, the relevant Primary Care Trust; or
- (b) where the determination relates to a multiple list practitioner, a relevant Primary Care Trust that has been nominated, by the relevant Primary Care Trusts from amongst themselves,

shall be deemed to be subject to that determination and shall be entitled to recover the amount outstanding pursuant to regulation 15 of the 1992 Regulations.

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Local representative committees: matters referred before the relevant date

25. A local representative committee recognised by a Health Authority before the relevant date, may exercise any functions given to it under the 1992 Regulations in relation to any matter which was referred to it, or initiated by it, before the relevant date, pursuant to paragraph 5(2) and (3) of Part 1 of this Schedule.

26. Where a Health Authority has notified its dissatisfaction with the determination of a Local Medical Committee to the Secretary of State in accordance with regulation 18 of the 1992 Regulations, but the matter has not been finally determined before the relevant date, the notification will be deemed to have been made by—

- (a) where the matter relates to a single list practitioner, the relevant Primary Care Trust, or
- (b) where the matter relates to a multiple list practitioner, by a Primary Care Trust that has been nominated by the relevant Primary Care Trusts from amongst themselves,

and any action taken by the Health Authority in respect of that matter before the relevant date shall be deemed to have been taken by that relevant Primary Care Trust who is deemed to have made the notification pursuant to sub-paragraph (a) or (b).

General matters relating to the transitional arrangements applying to the 1992 Regulations

27. Where in paragraphs 7 to 26, relevant Primary Care Trusts are required to nominate a Primary Care Trust from amongst themselves for a particular purpose—

- (a) the Primary Care Trusts shall nominate a Primary Care Trust that they consider to be the most appropriate in all the circumstances; and
- (b) if no nomination is made because of a disagreement between the Primary Care Trusts, any one or more of those relevant Primary Care Trusts may request that a Strategic Health Authority, within whose locality the relevant Primary Care Trusts fall, nominates a Primary Care Trust for that particular purpose.

28. Where a Strategic Health Authority holds any information that a Primary Care Trust would reasonably require in order to make any determination or nomination, or proceed with any matter pursuant to paragraphs 7 to 26 above, the Strategic Health Authority shall provide the Primary Care Trust with that information as soon as is reasonably practicable.

29. Regulation 2(3) of the 1992 Regulations applies to any reference to the Secretary of State in paragraphs 7 to 26 as it applies in those Regulations.