procedure of the Committee and for the transfer to it of the officers of the Welsh Joint Insurance (Pricing) Committee constituted under the National Health Insurance Act, who were engaged for the purposes of similar functions and the property and liabilities of the Committee held or incurred for such functions.

15. MEDICAL PRACTICES COMPENSATION

The National Health Service (Medical Practices Compensation) Regulations, 1948

1948 No. 1506

Made - - - -	1*st July*, 1948
Laid before Parliament	1*st July*, 1948
Coming into Operation	5*th July*, 1948

108152.

The Minister of Health, in exercise of his powers under sections 36 and 74 of the National Health Service Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:— 9 & 10 Geo. 6. c. 81.

PART I
General

1. These regulations may be cited as the National Health Service (Medical Practices Compensation) Regulations, 1948, and shall come into operation on the 5th day of July, 1948. Short title and commencement.

2.—(1) In these regulations, unless the context otherwise requires, the following expressions have the respective meanings hereby assigned to them:— Interpretation.

" the Act " means the National Health Service Act, 1946;

" the appointed day " means the fifth day of July, 1948;

" accounting year " in relation to a medical practice means the period of twelve months for which the accounts of the practitioner engaged in that practice are made up;

" medical list " means the list prepared by an Executive Council of medical practitioners undertaking to provide general medical services;

" practitioner " means a registered medical practitioner;

" aggregate amount of compensation " means the aggregate amount of compensation payable to practitioners in England and Wales under section 36 of the Act;

" qualified accountant " means a person who is a member of one or more of the following bodies:—

The Institute of Chartered Accountants in England and Wales;
The Society of Incorporated Accountants and Auditors;
The Society of Accountants in Edinburgh;
The Institute of Accountants and Actuaries in Glasgow;
The Society of Accountants in Aberdeen;
The Institute of Chartered Accountants in Ireland;
The Association of Certified and Corporate Accountants Limited.

(2) For the purposes of these regulations references to the goodwill of a medical practice shall, unless the context otherwise requires, in relation to a practitioner practising in partnership be construed as referring to his share of the goodwill of the partnership practice.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

PART II

Submission of claims, determination of loss, and payment of compensation

Claims for compensation.

3.—(1) A practitioner whose name is entered on the appointed day on a medical list and who claims to be entitled to compensation under section 36 of the Act in respect of any loss suffered by him by reason that he is, or will be, unable to sell the goodwill, or any part of the goodwill of his medical practice by virtue of section 35 of the Act shall make application to the Minister in the form set out in the schedule to these regulations or in a form to the like effect. If any such practitioner dies without having submitted a claim for compensation the application shall be made by the personal representative of that practitioner.

(2) Where a practitioner or the personal representative of a practitioner has obtained a certificate from the Medical Practices Committee certifying that the conditions of section 37 of the Act have been satisfied in relation to that practitioner and to his practice, the practitioner or the personal representative, as the case may be, shall be entitled to apply for compensation as if the practitioner were entitled to do so under paragraph (1) of this regulation.

(3) The form of application shall be duly completed by the applicant and delivered or sent by post to the Minister on or before the thirty-first day of October, 1948: Provided that, where the Minister is satisfied that by reason of unavoidable delay in the appointment of the personal representative of a deceased practitioner or in obtaining a certificate from the Medical Practices Committee under section 37 of the Act or for any other reason it is not or has not been practicable to submit an application by the thirty-first day of October, 1948, the Minister may allow such further period not exceeding six months for the submission of the claim as appears to him to be reasonable.

Medical practitioners in partnership.

4. The provisions of the succeeding regulations shall be subject, so far as they affect medical practitioners practising in partnership, to any provisions made hereafter either by further regulations under section 36 of the Act or by or under any Act amending the Act.

Determination of loss.

5. Subject to the provisions of these regulations, every medical practitioner engaged immediately before the appointed day as a principal in general medical practice whose name is entered on the appointed day on a medical list, and every practitioner in respect of whom and of whose practice a claim for compensation can be made in accordance with paragraph (2) of regulation 3, shall be deemed to have suffered loss, and he or his estate, as the case may be, shall be entitled to compensation: Provided that a practitioner who on the appointed day would have the right to sell, but for the provisions of the Act, the goodwill or any part of the goodwill of a medical practice in respect of which a claim has been made under section 37 of the Act shall not, if compensation is payable in respect of that claim, be deemed to have suffered loss in respect of that goodwill or any part of it.

Extent of loss.

6. The extent of the loss of a medical practitioner or the personal representative of a medical practitioner who is entitled to compensation under the last preceding regulation shall be determined in accordance with the following provisions of these regulations.

Annual loss.

7.—(1) There shall be ascertained the annual value of the goodwill of the practice of each practitioner who has claimed compensation or in respect of whom and of whose practice a claim for compensation has been made. Such annual value is hereinafter referred to as " the annual loss ".

(2) For the purpose of these regulations " the annual loss " means:—

(*a*) in respect of the practice (not being a partnership practice) in which the practitioner was engaged on the appointed day, the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the appointed day;

(*b*) in respect of a partnership practice in which the practitioner was engaged on the appointed day, such proportion of the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the appointed day, as the share of the goodwill of the partnership practice held by him on that day bears to the whole goodwill of the partnership practice;

(*c*) in respect of a practice to which section 37 of the Act applies, the average gross yearly receipts of that practice, as certified by a qualified accountant, calculated by reference to the last two accounting years immediately preceding the date of the retirement from practice or death of the practitioner:

Provided that:—(i) in the case of the goodwill of a practice acquired by purchase after the beginning of the first of the two accounting years by reference to which the average gross yearly receipts of the practice are, under the preceding provisions of this regulation, to be calculated, the annual loss means the average gross yearly receipts of the practice as estimated for the purpose of the purchase;

(ii) in the case of any claim referred to the Committee appointed under the next succeeding regulation the Committee shall fix as the annual loss in respect of the practice such sum as they estimate fairly to represent the average gross yearly receipts of the practice.

(3) A practitioner or the personal representative of a practitioner submitting a claim for compensation under these regulations may, if he so elects, instead of having the gross receipts of the practice certified by a qualified accountant, submit with his claim a certificate, in such form as may be agreed between the Minister and the Commissioners of Inland Revenue, signed by the Inspector of Taxes to whom income tax returns in respect of that practice have been submitted.

(4) In calculating the average gross yearly receipts of a practice for the purposes of paragraph (2) of this regulation no account shall be taken of fees or remuneration received for or in respect of the holding of any appointment or of any other fees or remuneration which would not normally be taken into account in assessing the value of the goodwill of a general medical practice for the purposes of the sale thereof.

Practices Compensation Committee.

8.—(1) There shall be constituted a committee to be called the Practices Compensation Committee (hereinafter referred to as " the Committee ").

(2) The Committee shall consist of a chairman and four other members. Three of the five members shall be medical practitioners.

(3) The chairman and members shall be appointed by the Minister after consultation with such organisation as the Minister may recognise as representing the medical profession.

(4) The Minister shall appoint a Secretary to the Committee and such organisation as the Minister may recognise as representing the medical profession may also appoint a Secretary to the Committee who shall act jointly with the Secretary appointed by the Minister. The Minister may also provide the services of such other officers as the Committee may require.

Claims submitted to Committee.

9.—(1) The Minister shall refer to the Committee all claims for compensation submitted in accordance with regulation 3 which in his opinion should be considered by the Committee.

(2) It shall be the duty of the Committee to consider the claims referred to them and to report their findings to the Minister.

Decisions on Claims.

10. The Minister, after considering each claim for compensation and, if the claim has been referred to the Committee, the findings of the Committee, shall notify the claimant or his personal representative of the annual loss as determined by the Minister for the purpose of calculating compensation under these regulations.

Arbitration.

11.—(1) Any claimant or his personal representative who is aggrieved by the decision of the Minister under the last preceding regulation may within fourteen days of the date of the notice given under that regulation apply to have the annual loss determined by arbitration.

(2) Any such application shall be sent to the Minister who shall thereupon refer the matter to the arbitration of a single arbitrator sitting with two assessors. The arbitrator and assessors shall be appointed by the Minister after consultation with such organisation as the Minister may recognise as representing the medical profession.

Distribution of aggregate amount of compensation.

12.—(1) For the purpose of calculating the distribution of the aggregate amount of compensation among persons who under these regulations are deemed to have suffered loss by reason of the matters referred to in regulation 3 there shall be calculated the aggregate of all annual losses determined in accordance with these regulations. The aggregate of such losses is hereinafter referred to as the aggregate annual loss.

(2) Subject as is otherwise provided in these regulations, there shall be payable out of the aggregate amount of compensation by way of compensation—

(*a*) to a practitioner practising otherwise than in partnership, or the estate of such a practitioner, who is entitled to compensation, such proportion of the aggregate amount of compensation as the annual loss determined to have been suffered by him or his estate on the appointed day bears to the aggregate annual loss;

(*b*) to a practitioner practising in partnership, or the estate of such a practitioner, who is entitled to compensation, such sum as may be determined by or under regulations made hereafter under section 36 of the Act or by or under any Act amending the Act.

(3) A practitioner or the personal representative of a practitioner to whom compensation has become payable under the last preceding paragraph shall be notified by the Minister of the amount of compensation so payable.

Payment of compensation.

13.—(1) Subject as hereinafter provided, the compensation payable to a practitioner or the estate of a practitioner under the last preceding regulation shall be paid to the practitioner or his personal representative—

(*a*) in the case of a practitioner to whom and to whose practice section 37 of the Act applies as soon as may be after the amount of compensation so payable has been ascertained;

(*b*) in any other case, on the retirement from practice or death of the practitioner concerned, whichever shall first occur: Provided that if the amount of compensation payable has not then been ascertained payment shall be made as soon as may be after the amount due has been ascertained.

(2) (*a*) A practitioner or the personal representative of a practitioner to whom and to whose practice Section 37 of the Act applies may, on the ground of hardship suffered or likely to be suffered by that practitioner or the persons entitled to his estate, at any time after the appointed day submit to the Minister a request for an advance payment on account of compensation in respect of which a claim has been made by that practitioner or his personal representative.

(*b*) Where a practitioner whose name is entered on the appointed day on a medical list retires or dies without having received payment of compensation to which he is entitled, the practitioner or his personal representative may, notwithstanding that the compensation payable in respect of the goodwill of the practice of the practitioner has not been ascertained, submit to the Minister on the ground of hardship suffered or likely to be suffered by him or the persons entitled to his estate a request for an advance payment on account of compensation in respect of which a claim has been made by the practitioner or his personal representative.

(*c*) In any case not falling within sub-paragraphs (*a*) or (*b*) of this paragraph a practitioner who claims to suffer hardship by reason of the non-payment before the date of his retirement from practice or death of compensation to which he is entitled under these regulations may at any time submit to the Minister a request for immediate payment of the whole or any specified part of the compensation to which he is entitled or, if the amount of compensation payable to him has not been ascertained, for an advance payment on account thereof.

(*d*) Any such request shall specify the grounds on which it is made and shall be supported by such written evidence as the practitioner or the personal representative of the practitioner considers necessary to justify the request.

(*e*) The Minister shall forthwith on receiving any such request consider the request and if he is satisfied, after making such investigations as appear to him necessary, that the request or some part thereof should be met, shall pay on such terms as he thinks fit to the practitioner or the personal representative of the practitioner such sum as the Minister considers to be fair and reasonable having regard to the evidence before him.

(3) For the purpose of paragraphs (1) (*b*) and (2) (*b*) and (*c*) of this regulation retirement from practice means retirement from practice as a medical practitioner providing general medical services under Part IV of the Act or under Part IV of the National Health Service (Scotland) Act, 1947. 10 & 11 Geo. 6. c. 27.

Interest on amount of compensation.

14.—(1) Subject as hereinafter provided there shall be paid out of moneys provided by Parliament interest at the rate of two and three quarters per cent. per annum less tax at the standard rate on the compensation payable to a practitioner or his personal representative under these regulations, in respect of any period from the appointed day until the time when the compensation is paid.

(2) Where an advance payment of compensation is made in pursuance of paragraph (2) of regulation 13, interest on the sum so paid shall no longer be payable.

(3) The first payment of interest due under these regulations shall be paid on the fifth day of July 1949 and thereafter interest shall be paid by half yearly instalments on the fifth day of January and the fifth day of July in each year.

SCHEDULE

Claim for Compensation under Section 36 of the Act

PART A

Insert full name and address.

I, of

a registered medical practitioner included in the Medical Register in that name and having the following qualifications, viz.

Insert qualifications.

being a practitioner [engaged immediately before 5th July, 1948 as a principal in general medical practice and whose name was entered on the 5th July, 1948 on the medical list of the Executive Council] [to whom and to whose practice section 37 of the Act applies] hereby claim compensation under section 36 of the Act by reason that I am or will be unable to sell the goodwill or any part of the goodwill of my practice by virtue of section 35 of the Act.

Delete words which do not apply.

PART B

Insert full names addresses and occupations of personal representatives.

I [we] of

of

and of

the personal representative[s] of

who died on and [who was engaged immediately before 5th July, 1948 as a principal in general medical practice and whose name was entered on the 5th July, 1948 on the medical list of the Executive Council] [to whose practice section 37 of the Act applies] hereby claim compensation in respect of loss suffered by the persons entitled to the estate of the said

Insert full names and date of death of the deceased practitioner.

Delete words which do not apply.

Insert name of deceased practitioner.

by reason that it is or will be unlawful to sell the goodwill or any part of the goodwill of the practice of the said

by virtue of section 35 of the Act.

PART C

I [we] certify that the particulars given in this claim and on any attached statement are correct and that the statement of gross receipts of the practice in respect of which this claim is made do not include fees or remuneration received for or in respect of the holding of any appointment or any other fees or remuneration which would not normally be taken into account in assessing the value of a general medical practice for the purposes of the sale thereof.

Signed.....

Date.....

Notes :—1. Where the claim is made by the medical practitioner himself Parts A and C should be completed.

2. Where the claim is made by the personal representative of a deceased practitioner Parts B and C should be completed.

PART D

(To be completed by a qualified accountant in cases where the claim is based on the gross receipts of the practice. This certificate need not be completed where the alternative certificate referred to in Reg. 7 (3) is submitted with the claim.)

I [we] hereby certify that I [we] have examined the accounts of the medical practice to which this claim relates and that the statement of the gross receipts of the practice is as shown in those accounts and is correct to the best of my [our] knowledge and belief and I [we] further certify that [the average gross yearly receipts] [the gross receipts] on which the claim is based were pounds (amount to be stated in words).

Delete words which do not apply.

Signed ..... Qualifications.....

Address ..... Date.....

Particulars to be furnished by the Claimant

Note :—In the following questions (*a*) the practitioner means the medical practitioner claiming compensation, or the deceased medical practitioner whose personal representative claims compensation (*b*) accounting year means the period of twelve months for which the accounts of the practitioner are made up.

1. Was the practitioner on the 5th July, 1948 (or, at the date of his retirement from practice before the 5th July, 1948, or death) engaged in medical practice alone or in partnership with other medical practitioners ?

2. If the practitioner was in practice alone (i.e. not in partnership with any other medical practitioner)

(*a*) state (i) the average gross yearly receipts of that practice calculated by reference to the last two complete accounting years before the 5th July, 1948 (or before the date of his retirement from practice or death as the case may be) and (ii) the date on which the two accounting years ended ; or

(*b*) if the practitioner has not been in that practice for two complete accounting years after the date on which he acquired the goodwill of his practice state—

(i) the date when he acquired the goodwill of his practice ;

(ii) the average gross yearly receipts on which the purchase price (if any) paid for the goodwill was calculated ;

(iii) if he acquired the goodwill of his practice otherwise than by purchase, the name and address of the person from whom the goodwill was acquired, the circumstances in which it was acquired and the gross receipts of the practice in respect of the period from the date when the goodwill was acquired to the 5th July, 1948 (or the date when the practitioner retired or died).

3. If the practitioner was in practice in partnership with any other medical practitioner or practitioners ;

(*a*) state the practitioner's share in the goodwill of the partnership practice ;

(*b*) state (i) the average gross yearly receipts of the partnership practice as it existed on the 5th July, 1948 calculated by reference to the last two complete accounting years before 5th July, 1948 (or before the date of the practitioner's retirement or death, as the case may be), and (ii) the date on which the two accounting years ended ;

(*c*) if the partnership as constituted on the 5th July, 1948 (or the date of the practitioner's retirement or death as the case may be) had not then been in existence for two complete accounting years state :

(i) the date on which the partnership was constituted

(ii) if the practitioner acquired his share of the goodwill of the practice by purchase, the average gross yearly receipts on which the purchase price paid for the goodwill was calculated.

(iii) if he acquired his share of the goodwill of the practice otherwise than by purchase, the name and address of the person from whom the goodwill was acquired, the circumstances in which it was acquired and the amount of his share of the gross receipts of the partnership practice in respect of the period from the date when he joined the partnership to the 5th July, 1948 (or the date when he retired or died)

(*d*) give on a separate statement :

(i) the full names and addresses of the partners (indicating separately those whose names were entered on any medical list on 5th July, 1948).

(ii) full particulars of any agreement in force immediately before the 5th July, 1948, whereby the practitioner was under any obligation or had any option to buy or sell the goodwill or any part of the goodwill of the partnership practice.

It is requested that a copy of the partnership agreement should accompany this form.

Notes.—1. In the case of a partnership it will be convenient if all partners who have suffered loss submit their claims for compensation together. If this is done only one copy of the partnership agreement need be submitted for all partners.

2. All information supplied in connection with this claim will be treated as *strictly confidential.*

Given under the official seal of the Minister of Health this first day of July, nineteen hundred and forty-eight.

(L.S.) *Aneurin Bevan,*
Minister of Health.

EXPLANATORY NOTE

(*This Note is not part of the Regulations, but is intended to indicate their general purport.*)

The regulations make provision for a medical practitioner whose name is included on the appointed day in the medical list of an Executive Council to claim compensation for the loss of the right to sell the goodwill of his practice. The regulations also prescribe the method of determining the loss of a practitioner and provide for the distribution of compensation to practitioners practising otherwise than in partnership. The determination of loss in the case of medical practitioners practising in partnership and the distribution of compensation to such practitioners has not been finally provided for in these regulations but left subject to further regulations or an amending Act of Parliament.