which the Council intimate to him refusal of consent and the Committee after such inquiry as they may think necessary shall determine the appeal."

Dated this 16th day of October, 1950.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

EXPLANATORY NOTE

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

The regulations amend the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations, 1948, by providing that, except on change of address, a person may choose another doctor only with the consent of the doctor in whose list his name is included or after a short waiting period; by enabling an Executive Council to exercise control over the number of patients whom a doctor may accept; and by making sundry minor amendments in the said Regulations.

MEDICAL PRACTICES COMPENSATION

The National Health Service (Medical Practices Compensation) (Scotland) Amendment Regulations, 1950

1950 No. 1899 (S. 127)

Made - - - -	*27th November,* 1950
Laid before Parliament	*29th November,* 1950
Coming into Operation	*1st December,* 1950

In exercise of the powers conferred on me by section 37 of the National Health Service (Scotland) Act, 1947(a), and section 1 of the National Health Service (Amendment) Act, 1949(b), and of all other powers enabling me in that behalf, I hereby make the following regulations:—

1. These regulations may be cited as the National Health Service (Medical Practices Compensation) (Scotland) Amendment Regulations, 1950, and shall come into operation on the 1st day of December, 1950.

2.—(1) In these regulations the expression "the principal regulations" means the National Health Service (Medical Practices Compensation) (Scotland) Regulations, 1948(c) as amended(d); and the expression "the Amending Act" means the National Health Service (Amendment) Act, 1949.

(2) The Interpretation Act, 1889(e), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(a) 10 & 11 Geo. 6. c. 27. (b) 12, 13 & 14 Geo. 6. c. 93.
(c) S.I. 1948 (No. 1768) I, p. 2441.
(d) *See* S.I. 1949 (No. 1206) I, p. 2667 and S.I. 1949 (No. 1946) I, p. 2668.
(e) 52 & 53 Vict. c. 63.

3. In paragraph (1) of regulation 2 of the principal regulations there shall be inserted after the definition of " the Act " the following definition ' " the Amending Act " means the National Health Service (Amendment) Act, 1949 '.

4. Any reference in the principal regulations to a practitioner whose name is entered on the appointed day on a medical list shall be deemed to include a reference to any practitioner who is entitled to claim compensation by virtue of Section 3 of the Amending Act.

5. In paragraph (3) of regulation 3 of the principal regulations for the words " thirty-first day of October, 1948 " there shall be substituted the words " thirty-first day of December, 1950 " and for the words " six months " there shall be substituted the words " two months ".

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

"3A. Where any question with regard to their respective rights or interests in a practice arises between claimants who have made claims (whether or not the claims relate to a partnership practice) nothing in these regulations shall be construed as conferring jurisdiction to decide that question and any of the succeeding provisions of these regulations which would, but for the provisions of this regulation, have applied to the claims shall not have effect until a decision on that question, obtained by the claimants by agreement or by arbitration or by application to the Court, has been intimated to the Secretary of State; and for the purposes of these regulations that decision shall be final and conclusive."

7. Regulation 5 of the principal regulations shall be amended in manner following:—

(i) In paragraph (1) after the words " except as hereafter provided in these regulations " there shall be inserted the words " and subject to the provisions of the Amending Act ".

(ii) In paragraph (2) for the words " thirty-first day of October, 1949," there shall be substituted the words " thirtieth day of April, 1951."

8. For the purposes of sub-paragraph (*b*) of paragraph (1) of regulation 7 of the principal regulations the average gross yearly receipts of a partnership practice shall be calculated by reference to the period therein mentioned regardless of any change in the membership of the partnership or of the fact that the practice became a partnership practice after the beginning of that period.

9.—(1) Proviso (i) to paragraph (1) of regulation 7 of the principal regulations shall apply to the ascertainment of the annual loss in respect of a share of the goodwill of a partnership practice where the goodwill of that practice or any part thereof has been acquired by purchase within the period therein mentioned by and on behalf of the partnership and in such a case shall have effect as if the words " the appropriate proportion as provided by sub-paragraph (*b*) hereof of " were inserted before the words " the average gross yearly receipts of the practice as estimated for the purpose of the purchase ".

(2) Proviso (i) to paragraph (1) of regulation 7 of the principal regulations shall not apply to the ascertainment of the annual loss in respect of a share of the goodwill of a partnership practice where that share or some part thereof was purchased by the practitioner:

(*a*) on or with a view to or after the constitution of the partnership practice with the practitioner from whom the share was purchased, or

(*b*) on or with a view to or after his becoming a member of the partnership from whom the share was purchased.

10. Subject to the provisions of regulation 13 of the principal regulations the determination by the Secretary of State of the amount of the annual loss notified to the claimant in accordance with regulation 12 of the principal regulations shall be final and conclusive except that:—

(1) Where the notification was given to the claimant before the coming into operation of these regulations the Secretary of State may within six months after the coming into operation of these regulations make such modification of the amount of the annual loss as is necessary:—

(*a*) to give effect to sub-section (13) of Section 1 of the Amending Act; or

(*b*) to give effect to any of the provisions of these regulations; or

(*c*) to give effect to any facts or information not known to the Secretary of State when such amount was determined; and

(2) Where the notification is given to the claimant after the coming into operation of these regulations the Secretary of State may within six months after the coming into operation of these regulations or within one month after such notification has been given whichever is the later make such modification of the said amount as is provided for by sub-paragraph (*c*) of paragraph (1) hereof.

11. Any modification of the amount of the annual loss made under the last preceding regulation shall be notified to the claimant who shall have the right within fourteen days thereafter to intimate to the Secretary of State his desire to appeal under regulation 13 of the principal regulations as if such notification were a notice referred to in that regulation.

12. In regulation 13 of the principal regulations after paragraph (6) thereof there shall be inserted the following paragraphs:—

"(7) Where intimation of desire to appeal relating to a share of the goodwill of a partnership practice has been made the Secretary of State shall give notice of such intimation to any other claimant interested in respect of the same partnership who has not made or joined in making an intimation of desire to appeal and such other claimant shall be entitled to attend and take part in the appeal proceedings.

(8) Where in any appeal relating to a share of the goodwill of a partnership practice the referee modifies the amount of the annual loss as determined by the Secretary of State in respect of that share the referee shall have power to modify the annual loss in respect of the other shares of the goodwill of the practice, so however that the proportion which each share bears to the others shall not be altered by such modification.

(9) Unless the referee otherwise directs all appeals relating to shares of the goodwill of the same partnership practice shall be consolidated and be held together."

13. Regulation 14 of the principal regulations shall be amended in manner following:—

(i) In paragraph (2) after the words "subject as is otherwise provided in these regulations" there shall be inserted the words "and subject to the provisions of the Amending Act" and after the words "aggregate amount of compensation" there shall be inserted the words "in the case of any practitioner" and the words "by way of compensation" shall be deleted.

(ii) In sub-paragraph (*a*) of paragraph (2) the words "in the case of a practitioner practising otherwise than in partnership" shall be deleted and for the word "him" there shall be substituted the words "the practitioner".

(iii) Sub-paragraph (*b*) of paragraph (2) shall be deleted.

14. In paragraph (1) of regulation 15 of the principal regulations after the words "subject as hereinafter provided" there shall be inserted the words "and subject to the provisions of the Amending Act".

15. A practitioner entitled to claim compensation by virtue of section 3 of the Amending Act, shall, in making his claim, delete from the prescribed claim form any reference to his name having been entered in a medical list on the fifth day of July, 1948, and shall attach to the form a signed statement that on the fifth day of July, 1948, he was practising in partnership and that subsequently, but before the expiration of two months from the sixteenth day of December, 1949, his name was entered on the medical list of an Executive Council named in the statement.

16.—(1) Where the purchase price of a share of the goodwill of a partnership practice, purchased by a listed partner in circumstances mentioned in sub-section (8) of section 1 of the Amending Act, is payable by instalments, the compensation payable to that partner under the sub-section shall also be payable by instalments. Each instalment of compensation shall be a sum bearing to the total compensation payable the same proportion as that which the corresponding instalment of the purchase price bears to the total purchase price.

(2) The instalments of compensation shall be payable as soon as possible after the corresponding instalments of the purchase price have become payable in accordance with the agreement referred to in the said subsection and have been paid; but where any instalment of the purchase price is paid before the date fixed by the said agreement for payment the Secretary of State may if he thinks fit pay the corresponding instalment of compensation on or as soon as possible after the date of the actual payment of the instalment of the purchase price.

Hector McNeil,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh, 1.

27th November, 1950.

EXPLANATORY NOTE

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

These regulations make further provision for the assessment of compensation payable to members of medical partnerships for the loss of the right to sell their practices.

They also extend the time within which claims for compensation may be made and make certain other amendments in the existing regulations.