14. MEDICAL PRACTICES COMPENSATION

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

1948 No. 1768 (S. 152)

Made - - - -	*28th July*, 1948
Laid before Parliament	*29th July*, 1948
Coming into Operation	*2nd August*, 1948

In exercise of the powers conferred on me by sections 37 and 72 of the National Health Service (Scotland) Act, 1947(a), and of all other powers enabling me in that behalf I hereby make the following regulations:—

PART I

General

Short title and commencement.

1. These regulations may be cited as the National Health Service (Medical Practices Compensation) (Scotland) Regulations, 1948, and shall come into operation on the 2nd day of August, 1948.

Interpretation.

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

" the Act " means the National Health Service (Scotland) Act, 1947;

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

" aggregate amount of compensation " means the aggregate amount of compensation payable to practitioners in Scotland under section 37 of the Act;

" the annual loss " means the annual loss suffered by a practitioner as ascertained in accordance with regulation 7 hereof;

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

" the Committee " means the Practices Compensation Committee appointed under regulation 9 hereof;

" 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;

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

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

(a) 10 & 11 Geo. 6. c. 27.

(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(a), applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

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 37 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 36 of the Act shall make a claim to the Secretary of State in the form set out in the Schedule to these regulations or in a form to the like effect.

(2) Where a practitioner or the personal representative of a practitioner has satisfied the Scottish Medical Practices Committee that the conditions of section 38 of the Act are fulfilled in relation to that practitioner and to his practice, a claim may be made by that practitioner or his personal representative in the manner provided in the last foregoing paragraph of this regulation.

(3) The claim shall be delivered to the Secretary of State on or before the thirty-first day of October, 1948: Provided that, where the Secretary of State is satisfied that it is not or has not been practicable to submit a claim by the thirty-first day of October, 1948, the Secretary of State may in the circumstances of any particular case allow such further period not exceeding six months for the submission of the claim as he may think fit.

Practitioner 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 37 of the Act or by or under any Act amending the Act.

Determination of loss.

5.—(1) Except as hereafter provided in these regulations, every 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 hereof shall be deemed to have suffered loss in respect of which title to compensation under section 37 of the Act arises.

(2) After consultation with the practitioner or his personal representative and with such organisation representing the medical profession as they may recognise, the Committee may not later than the thirty-first day of October, 1949, direct that a practitioner who immediately before the appointed day or, in a case in which the conditions of section 38 of the Act are satisfied, immediately before his retirement or death was a party to an agreement providing for a payment out of the Highlands and Islands (Medical Service) Fund shall not be deemed to have suffered loss as aforesaid; and where they so direct they shall notify the practitioner or his personal representative accordingly.

(a) 52 & 53 Vict. c. 63.

6. The extent of the loss of a practitioner who is deemed in accordance with regulation 5 hereof to have suffered loss, and by whom or by whose personal representative a claim for compensation has been made, shall be determined by ascertaining in accordance with the next succeeding regulation the annual loss suffered by the practitioner. Extent of loss.

7.—(1) For the purpose of the immediately preceding regulation the annual loss suffered by a practitioner shall be:— Annual loss.

(*a*) in respect of a 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 38 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 shall be the average gross yearly receipts of the practice as estimated for the purpose of the purchase;

(ii) in the case of any practice in respect of which a claim for compensation is referred to the Committee under regulation 10 hereof, the annual loss shall be such sum as the Committee estimate fairly to represent the average gross yearly receipts of the practice.

(2) 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 Secretary of State and the Commissioners of Inland Revenue, signed by the Inspector of Taxes to whom income tax returns in respect of the practice have been submitted.

(3) In calculating the average gross yearly receipts of a practice for the purposes of paragraph (1) 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 receipts 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.

8. These regulations shall not be construed as conferring on any practitioner other than the practitioner who has died or retired from the practice any title to compensation in respect of the goodwill or any part of the goodwill of a practice to which paragraph (2) of regulation 3 Avoidance of duplicate payments.

applies, and accordingly any receipts of such a practice or of any part thereof, by whichever practitioner they have been earned, shall be excluded in ascertaining in accordance with the last foregoing regulation the annual loss of any such other practitioner.

Practices Compensation Committee.

9.—(1) There shall be constituted a committee to be called the Practices Compensation 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 Secretary of State after consultation with such organisation as he may recognise as representing the medical profession.

(4) The Secretary of State shall appoint a secretary to the Committee and such organisation as the Secretary of State 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 Secretary of State. The Secretary of State may also provide the services of such other officers as the Committee may require.

Claims submitted to Committee.

10. The Secretary of State shall refer to the Committee all claims for compensation submitted in accordance with regulation 3 hereof which in his opinion should be considered by the Committee.

Decisions by Committee.

11. It shall be the duty of the Committee to consider the claims referred to them and to report their findings to the Secretary of State.

Decisions on claims.

12. The Secretary of State, 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 of the annual loss as determined by the Secretary of State for the purpose of calculating compensation under these regulations.

Appeal

13. Any claimant who is aggrieved by the determination of the Secretary of State under the last preceding regulation or by a direction of the Committee under regulation 5 hereof may within fourteen days of the date of the notice given under the appropriate regulation intimate to the Secretary of State his desire to appeal; and the Secretary of State shall thereupon refer the matter for decision by a referee sitting with two assessors, who may decide the matter with or without a hearing as the referee may think fit. The referee and assessors shall be appointed by the Secretary of State after consultation with such organisation as he may recognise as representing the medical profession.

Distribution of aggregate amount of compensation.

14.—(1) For the purpose of calculating the distribution of the aggregate amount of compensation 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, the amount payable out of the aggregate amount of compensation by way of compensation shall be—

(*a*) in the case of a practitioner practising otherwise than in partnership, such proportion of the aggregate amount of compensation as the extent of the annual loss determined in accordance with these regulations to have been suffered by him bears to the aggregate annual loss;

(*b*) in the case of a practitioner practising in partnership, such sum as may be determined by or under regulations made hereafter under section 37 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 is payable shall be notified by the Secretary of State of the amount of compensation in his case calculated in accordance with the last preceding paragraph.

Payment of compensation.

15.—(1) Subject as hereinafter provided, the compensation payable to a practitioner or to the personal representative of a practitioner shall be paid:—

(*a*) in the case of a practitioner to whom and to whose practice section 38 of the Act applies, as soon as may be after the amount of compensation so payable has been calculated;

(*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 calculated payment shall be made as soon as may be after the amount payable has been calculated.

(2) (*a*) A practitioner or the personal representative of a practitioner to whom and to whose practice section 38 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 these regulations come into operation submit to the Secretary of State a request for an advance payment on account of compensation in respect of which a claim has been made by that practitioner or 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 his case has not been calculated, submit to the Secretary of State 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 in accordance with these regulations may at any time submit to the Secretary of State 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 calculated, 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 Secretary of State may require the practitioner or the personal representative of the practitioner to furnish.

(*e*) The Secretary of State 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 should be met in whole or in part, shall pay on such conditions as he thinks fit to the practitioner or the personal representative of the practitioner such sum as the Secretary of State considers to be fair and reasonable having regard to the evidence before him.

(3) For the purpose of this regulation retirement from practice means retirement from practice as a medical practitioner providing any general medical services under Part IV of the Act or under Part IV of the National Health Service Act, 1946(a).

Interest on amount of compensation.

16.—(1) Subject as hereinafter provided there shall be payable out of moneys provided by Parliament interest at the rate of two and three quarters per cent. per annum less income tax at the standard rate on compensation payable in accordance with 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 the last foregoing regulation, interest on the sum so paid shall no longer be payable.

(3) Except as provided in the next succeeding paragraph of this regulation, interest due in accordance with these regulations in respect of the year ending immediately before the fifth day of July 1949 shall be paid on that date, and thereafter interest shall be paid on the fifth day of January and the fifth day of July in each year in respect of the periods of six months ending immediately before these days.

(4) When any payment or advance payment of compensation is made, there shall be paid also such interest on the amount thereof as is then due in accordance with these regulations and has not previously been paid.

Arthur Woodburn,
One of His Majesty's Principal Secretaries of State.

St. Andrew's House,
Edinburgh 1.
28th July, 1948.

SCHEDULE

Claim for Compensation under Section 37 of the Act

PART A

Insert full name and address.

Delete words which do not apply.

I, of being a registered medical 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 38 of the Act applies] hereby claim compensation under section 37 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 36 of the Act.

PART B

Insert full names and addresses of personal representatives.

Insert full name and date of death of practitioner.

Delete words which do not apply.

Insert name of deceased practitioner.

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 whom and to whose practice section 38 of the Act applies] hereby claim compensation in respect of loss suffered by the persons entitled to the estate of the said 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 36 of the Act.

(a) 9 & 10 Geo. 6. c. 81.

PART C

I [we] certify that the particulars given in this claim and in the attached statement[s] 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 receipts 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 by the Inspector of Taxes 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), [and that receipts as detailed in the separate statement, amounting to pounds (amount to be stated in words), have been excluded from the claim in order to comply with the certificate in Part C].

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 date of his retirement from practice or death before the 5th July, 1948, as the case may be) engaged in medical practice alone, or was he 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 the 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 had not been in the 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 the practice;

(ii) if he acquired 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 the goodwill of the practice otherwise than by purchase, the name and address of any 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 (or the date of the practitioner's retirement or death, as the case may be) 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 any 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 in a separate statement:

(i) the full names and addresses of the partners (indicating separately those whose names were entered on any medical list on the 5th July, 1948, or in whose case section 38 of the Act applies).

(ii) full particulars of any agreement in force immediately before the 5th July, 1948 (or before the date of the practitioner's retirement or death, as the case may be) 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. Any receipts of a practice excluded from this claim in order to comply with the certificate in Part C should be detailed in a separate statement. Details should also be given of any receipts included in the claim as to the inclusion of which there may be doubt from this standpoint.

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

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 distribution of compensation in the case of medical practitioners practising in partnership has not been provided for in these regulations but is left subject to further regulations or an amending Act of Parliament.

15. REGIONAL HOSPITAL BOARDS

The National Health Service (Functions of Regional Hospital Boards) (Scotland) Regulations, 1948

1948 No. 594 (S. 41)

Made - - - -	*18th March,* 1948
Laid before Parliament	*23rd March,* 1948
Coming into Operation	*25th March,* 1948

In exercise of the powers conferred on me by section 12 of the National Health Service (Scotland) Act, 1947(a), 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 (Functions of Regional Hospital Boards) (Scotland) Regulations, 1948, and shall come into operation on the 25th day of March, 1948.

2.—(1) In these regulations:—

" the Act " means the National Health Service (Scotland) Act, 1947;

" hospital and specialist services " includes, in addition to the accommodation and services provided under section 3, any accommodation and services provided under sections 16, 18 and 61 of the Act.

(2) The Interpretation Act, 1889(b), 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) 52 & 53 Vict. c. 63.