
STATUTORY INSTRUMENTS

2004 No. 865

**The General Medical Services and Personal Medical Services
Transitional and Consequential Provisions Order 2004**

PART 9

SAVINGS, MODIFICATIONS, AMENDMENTS AND REVOCATIONS

Meaning of suitable experience

110.—(1) Until the coming into force of article 5 of the 2003 Order, where, in any enactment, there is a reference to a medical practitioner being “suitably experienced” within the meaning of section 31(2) of the 1977 Act, that reference shall be construed in accordance with paragraph (2).

(2) A medical practitioner shall, pursuant to paragraph (1), be regarded as being “suitably experienced” if he—

- (a) holds a certificate of prescribed experience;
- (b) holds a certificate of equivalent experience;
- (c) is exempt from the need to have acquired the prescribed experience pursuant to regulation 5 of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(1) (exemptions); or
- (d) has an acquired right to practise pursuant to regulation 5 of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(2), other than by virtue of regulation 5(1)(d) of those Regulations (acquired rights).

(3) In this article, “certificate of prescribed experience” and “certificate of equivalent experience” have the meanings assigned to them in regulation 2(1) of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997.

(4) Notwithstanding the repeal of section 31 and 32 of the 1977 Act, the National Health Service (Vocational Training for General Medical Practice) Regulations 1997 and the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 shall remain in force (subject to the transitory modifications made in this Part) until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to, the 2003 Order.

Savings of certain provisions of the Medical Act 1983

111. Notwithstanding the coming into force of the amendments to sections 11 and 12 of the Medical Act 1983(3) made by paragraphs 47 to 49 of Schedule 11 to the 2003 Act(4), in relation to any employment before 1st April 2004 in—

(1) S.I.1997/2817 as amended by S.I. 1998/669 and 2003/3148. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(2) S.I. 1994/3130 as amended by S.I. 1997/2817 and 2003/3148. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(3) 1983 c. 54.

- (a) an approved medical practice; or
- (b) a health centre,

sections 11(4) and 12(2)(a) of the Medical Act 1983 shall have effect as if those amendments had not been brought into force.

Saving of section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992

112. Notwithstanding the coming into force of the amendments to the definition of worker in section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992(5) (health service practitioners) made by paragraph 59 of Schedule 11 to the 2003 Act(6), in relation to any complaint arising in respect of a matter which occurred before 1st April 2004, section 279 shall have effect as if those amendments had not been brought into force.

Saving of sections 2A and 6(5) of the Health Service Commissioners Act 1993

113. Notwithstanding the coming into force of the amendments to sections 2A and 6(5) of the Health Service Commissioners Act 1993(7) made by paragraphs 62 and 63 of Schedule 11 to the 2003 Act(8), in relation to any complaint arising in respect of a matter which occurred before 1st April 2004, sections 2A and 6(5) shall have effect as if those amendments had not been brought into force.

Transitional provision in relation to the National Health Service (Injury Benefits) Regulations 1995

114. Notwithstanding the amendments made to the National Health Service (Injury Benefits) Regulations 1995 by paragraph 13 of Schedule 1, those regulations shall, in relation to any employment before 1st April 2004, continue to apply as if those amendments had not been made.

Transitory modification of section 18 of the 1990 Act

115. For as long as default contracts entered into pursuant to section 176(3) of the 2003 Act (general medical services: transitional) exist, section 18 of the 1990 Act(9) (indicative amounts for doctors' practices) shall be read as if—

- (a) the reference in subsection (3)(a) to a contract under section 28Q of the Act included a reference to a default contract entered into pursuant to section 176(3) of the 2003 Act; and
- (b) after subsection (3), there were inserted—
 - “(3A) Where, in the same financial year, a practice enters into—

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- (4) Paragraphs 47 to 49 of Schedule 11 were commenced on 1st April 2004 by article 5(2)(s) of the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No. 2) Order 2004 (S.I. [2004/288](#)) (“the 2003 Act commencement order”).
 - (5) [1992 c. 52](#). Section 279 was amended by the Health Authorities Act [1995 \(c. 17\)](#), Schedule 1, paragraph 122, the National Health Service (Primary Care) Act [1997 \(c. 46\)](#), Schedule 2, paragraph 67, the Health and Social Care Act [2001 \(c. 15\)](#), Schedule 5, paragraph 9, the National Health Service Reform and Health Care Professions Act [2002 \(c. 17\)](#), Schedule 2, paragraph 60 and Schedule 3, paragraph 13 and the 2003 Act, Schedule 11, paragraph 59.
 - (6) Paragraph 59 of Schedule 11 was commenced on 1st April 2004 by article 5(2)(v) of the 2003 Act commencement order, subject to the transitional provision in article 7(9) of that Order.
 - (7) [1993 c. 46](#). Section 2A was inserted by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), section 1 and amended by the National Health Service (Primary Care) Act [1997 \(c. 46\)](#), Schedule 2, paragraph 68, the Health Service Commissioners (Amendment) Act [2000 \(c. 28\)](#), section 1, the [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), Schedule 6, paragraph 14 and the 2003 Act, Schedule 11, paragraph 62; section 6(5) was inserted by the Health Service Commissioners (Amendment) Act [1996 \(c. 5\)](#), section 7(3) and amended by the National Health Service Reform and Health Care Professions Act [2002 \(c. 17\)](#), Schedule 2, paragraph 61 and the 2003 Act, Schedule 11, paragraph 63.
 - (8) Paragraphs 62 and 63 of Schedule 11 were commenced on 1st April 2004 by article 5(2)(w) of the 2003 Act commencement order, subject to the transitional provision in article 7(10) of that Order.
 - (9) [1990 c. 19](#). Section 18(3) (a) and (b) were substituted by the 2003 Act, Schedule 11, paragraph 56(3).

- (a) a contract pursuant to section 176(3) of the Health and Social Care (Community Health and Standards) Act 2003; and
- (b) a contract with the same Primary Care Trust under section 28Q of the Act which takes effect immediately after the contract referred to in paragraph (a) ceases to have effect,

that practice will, for that financial year, count as a single practice for the purposes of this section.”.

Modification of section 115 of the Police Act 1997

116.—(1) Until the coming into force of paragraph 4(4) of Schedule 35 to the Criminal Justice Act 2003(**10**), section 115 of the Police Act 1997(**11**) shall be read as if—

- (a) in subsection (6C)—
 - (i) the words “Part 2 of” were omitted, and
 - (ii) for paragraph (a) there were substituted—

“(a) medical practitioners performing primary medical services,”; and
- (b) in subsection (6E)—
 - (i) in paragraph (a), the words “section 28DA of the National Health Service Act 1977 or” were omitted, and
 - (ii) in paragraph (b), for “the 1977 Act” there were substituted “the National Health Service Act 1977”.

(2) The modifications made by this article do not extend to Scotland or Northern Ireland.

Transitory modification of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994

117.—(1) Until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 are to have effect as if they were amended in accordance with this article.

- (2) In regulation 5 (acquired rights)(**12**), for paragraph (4)(a), substitute—

“(a) a person who has the acquired right specified in paragraph (1)(a), but only by virtue of the fact that he was a restricted services principal included in a list specified in that paragraph, is not entitled to be considered as suitably experienced within the meaning of section 31(2) of the National Health Service Act 1977 for the purposes of regulation 4(1), (2)(a) or (3)(a) of the National Health Service (General Medical Services Contracts) Regulations 2004(**13**) or regulation 4(1), (2)(a) or (3)(a) of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(**14**); and”.
- (3) The modifications made by this article do not extend to Scotland or Northern Ireland.

(10) 2003 c. 44.

(11) 1997 c. 50. Subsections (6C) and (6E) were inserted into section 115 by the Health and Social Care Act 2001 (c. 15), section 19(3) and section (6E) was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedule 2, paragraph 64.

(12) Regulation 5 was previously amended by S.I. 1997/2817: the whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(13) S.I. 2004/291.

(14) S.I. 2004/478 (W.48).

Transitory modification of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997

118.—(1) Until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the National Health Service (Vocational Training for General Medical Practice) Regulations 1997 are to have effect as if they were amended in accordance with this article.

(2) In regulation 2 (interpretation)—

(a) in the definition of “General Practice (GP) Registrar”—

(i) for sub-paragraph (a), there shall be substituted—

“(a) means a medical practitioner who is being trained in general practice by a medical practitioner who has been approved for that purpose by the JCPTGP pursuant to regulation 7;”, and

(ii) for sub-paragraph (d), there shall be substituted—

“(d) includes a practitioner who is being trained in general practice by a practitioner who performs primary medical services in connection with an agreement for primary medical services made under section 28C of the Act;”;

(b) in the definition of “medical list”, in both sub-paragraphs (a) and (b), insert after the word “list” the words “that was”;

(c) in paragraph (2)—

(i) in sub-paragraph (a) for the words “is (or if the context so requires was)” substitute “was”, and

(ii) omit the full out text at the end.

(3) Regulation 4 (experience and certificates required) shall be omitted.

(4) In regulation 5 (exemptions), in paragraph (1) for sub-paragraph (d) substitute—

“(d) if his name was, on 31st December 1994, included in a medical list for the provision of general medical services limited to—

(i) child health surveillance services only,

(ii) contraceptive services only,

(iii) maternity medical services only,

(iv) minor surgery services only, or

(v) any combination of the services mentioned in paragraphs (i) to (iv);”.

Minor and consequential amendments

119. The enactments listed in Schedule 1 are amended as there specified.

Revocations

120. The enactments listed in Schedule 2 are revoked to the extent there specified.