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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 217**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2004**

<i>Made</i>	- - - -	<i>13th May 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>14th May 2004</i>
<i>Coming into force</i>	- -	<i>7th June 2004</i>

The Scottish Ministers, in exercise of the powers conferred by sections 17E, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2004 and shall come into force on 7th June 2004.

**Amendment of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004**

2.—(1) The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(2) shall be amended as provided in this regulation.

(2) In regulation 2 (interpretation) in paragraph (a)(iii) of the definition of “patient” for “person” substitute “persons”.

(3) In regulation 11 (essential services and content of agreements)—

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- (1) 1978 c. 29. Section 17E was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 22(2) and amended by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 47 and the Primary Medical Services (Scotland) Act 2004 (asp 1), section 2(4); section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and the 1999 Act, Schedule 4, paragraph 60; section 108(1) defines “prescribed” and “regulations”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) S.S.I. 2004/116.

- (a) in paragraph (2) for “22(8)(a)” substitute “21(8)(a)”; and
  - (b) in paragraph (3) for “23(6) to (8)” substitute “23(5) to (7)”.
- (4) In regulation 12 (additional services and content of agreements) for “Regulation” substitute “Regulations”.
- (5) In regulation 21 (finance) for “sections” substitute “section”.
- (6) In regulation 22(1) (fees and charges) before “provisions” insert “the”.
- (7) In Schedule 1 (content of agreements)–
- (a) in paragraph 8(3)(b) (patient preference of practitioner) omit “by”;
  - (b) in paragraph 25 (training) for “has” substitute “there are”;
  - (c) in paragraph 40(b) (notifications to the Health Board) for “66 or 67” substitute “65 or 66”;
  - (d) in paragraph 42(2)(a) (notice provisions specific to agreements with one or more companies limited by shares) before “a person” insert “is”;
  - (e) in paragraph 56(9)(a)(NHS dispute resolution procedure) for “he has” substitute “they have”;
  - (f) in paragraph 57 (determination of dispute)–
    - (i) in sub-paragraph (1) omit “its”; and
    - (ii) in sub-paragraph (3) for “adjudicators” substitute “adjudicator’s” in both places where it occurs;
  - (g) in paragraph 59(1) (variation of an agreement: general) for “60, 61” substitute “62”;
  - (h) in paragraph 66 (other grounds for termination by the Health Board)–
    - (i) in sub-paragraph (3)(g) for “(5)” substitute “(6)”;
    - (ii) in sub-paragraph (4) for “(2)(c)” substitute “(3)(b)”;
    - (iii) in sub-paragraph (5) for “(2)(d)” substitute “(3)(c)”;
    - (iv) in sub-paragraph (6) for “(2)(h)” substitute “(3)(g)”;
  - (i) in paragraph 78(5) (gifts) for “his” substitute “the patient’s”.
- (8) In Schedule 2 (agreements to provide essential services)–
- (a) in paragraph 1(7) (essential services) before “necessary” insert “immediately”;
  - (b) in paragraph 4(2) (newly registered patients) for “to” in the first place where it occurs substitute “shall”;
  - (c) in paragraph 13(3) (removal from the list at the request of the provider) omit “that the patient” in the second place where it appears;
  - (d) in paragraph 23(9)(rejection of closure notice by the Health Board) for “liability” substitute “ability”;
  - (e) in paragraph 28 (assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel)–
    - (i) in sub-paragraph (3)(a) after “28(1)” insert “of Schedule 2”;
    - (ii) in sub-paragraph (3)(b) for “21(7)” substitute “27(7)”;
  - (f) in paragraph 31 (notifications to the Health Board)–
    - (i) omit “, where the provider has a provider’s list of patients,”; and
    - (ii) for “1(1)(c) or (d) of Schedule 2” substitute “1(5) or (7)”.
- (9) In Schedule 5 (closure notice)–
- (a) before “Section” insert “Primary Medical Services”; and

- (b) for “ore” substitute “or”.
- (10) In Schedule 6 (information to be included in practice leaflets)—
  - (a) in paragraph 18 for “27” substitute “26”; and
  - (b) in paragraph 24—
    - (i) for “8(2)(c)” substitute “9(2)(c)”; and
    - (ii) for “15(2)” substitute “14(2)”.

St. Andrew’s House, Edinburgh  
13th May 2004

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 (“the principal Regulations”), which set out the framework for section 17C agreements for primary medical services under section 17C of the National Health Service (Scotland) Act 1978.

These Regulations:–

- (a) correct the reference in the principal Regulations regarding the items that must be specified in a section 17C agreement where the agreement specifies that the provider’s list of patients is closed (regulation 2(3)(a));
- (b) correct references to certain provisions in the principal Regulations that need not be included in an agreement to provide essential services, but which have effect in relation to the matters they deal with (regulation 2(3)(b));
- (c) correct references to the provisions under which circumstances giving rise to a Health Board’s right to terminate an agreement must be notified to the Health Board (regulation 2(7)(c));
- (d) correct and clarify the amendments or variations to an agreement that shall have effect without being in writing and signed by or on behalf of the Health Board and the provider (regulation 2(7)(g));
- (e) correct references to provisions which allow a Health Board to terminate an agreement with a party to that agreement (regulation 2(7)(h));
- (f) clarify that the primary medical services which must be provided by virtue of paragraph 1(7) of Schedule 2 of the principal Regulations are for the immediately necessary treatment of certain persons for certain periods (regulation 2(8)(a));
- (g) amend the provisions in the principal Regulations as to when a provider under an agreement may, in certain circumstances, submit a further list closure notice following rejection of a list closure by an assessment panel (regulation 2(8)(d));
- (h) clarify and correct references in the principal Regulations relating to the NHS dispute resolution procedure relating to determinations of an assessment panel (regulation 2(8)(e));
- (i) clarify and correct provision in the principal Regulations as to certain notifications to be made to Health Boards by providers who have a list of patients (regulation 2(8)(f));
- (j) correct errors in the form of closure notice specified in Schedule 5 to the principal Regulations (regulation 2(9));
- (k) clarify that where certain services are not provided by a provider, the information as to which Health Board that is responsible for providing those services shall be included in a practice leaflet (regulation 2(10)(a));
- (l) correct references in the principal Regulations as to information to be included in practice leaflets about action that may be taken where a patient is violent or abusive to certain persons (regulation 2(10)(b)); and
- (m) correct other minor drafting errors in the principal Regulations (regulation 2(2),(4) to (6), (7)(a), (b), (d) to (f) and (i), (8)(b) and (c)).

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