
SCOTTISH STATUTORY INSTRUMENTS

1999 No. 53

NATIONAL HEALTH SERVICE

The National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1999

Made - - - - 7th September 1999
Laid before the Scottish Parliament - - - - 10th September 1999
Coming into force - - 1st October 1999

The Scottish Ministers, in exercise of the powers conferred on them by sections 19(2), 25(2), 26(2), 27(2), 29(1) and (6), 32, 105(7), 106(a) and 108(1) of, and paragraph 7 of Schedule 8 to the National Health Service (Scotland) Act 1978(1), and sections 39(1) and 40(2) of, and paragraphs 3(4) and (5) of Schedule 1 to, the National Health Service (Primary Care) Act 1997(2) and of all other powers enabling them in that behalf, and after consultation with the Scottish Committee of the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(3) hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1999 and shall come into force on 1st October 1999.

(2) In these Regulations “the principal Regulations” means the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(4).

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- (1) 1978 c. 29; section 19(2) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 2, and was extended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 17; section 25(2) was extended by the 1988 Act, section 17 and was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 40(2) and Schedule 9, paragraph 19(6); section 26(2) was amended by the Health and Social Security Act 1984 (c. 48), Schedule I, Part II, paragraphs 2, 3 and 4 and Schedule 8, Part I and was extended by the 1988 Act, section 17; section 27(2) was amended by the National Health Service (Amendment) Act 1986 (c. 66), section 3(3) and by the 1990 Act, Schedule 9, paragraph 19(7)(b) and was extended by the 1988 Act, section 17; section 32 was amended by the National Health Service (Amendment) Act 1995 (c. 31) (“the 1995 Act”), Schedule; section 105(7), which contains provisions relevant to the making of Regulations, was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by the 1983 Act, Schedule 9, paragraph 24 and by the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. 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) 1997 c. 46.
- (3) 1992 c. 53.
- (4) S.I.1992/434, amended by S.I.1994/3038, 1995/3201, 1996/938, 1998/657 and 1424.

General amendment of the principal Regulations

2. In regulations 8, 10, 11, 17, 18, 19, 21, 26, 29, 30, 34, 35, 37, 38, 41, and 44 of the principal Regulations after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

Amendment of regulation 1 of the principal Regulations

3.—(1) Regulation 1 of the principal Regulations (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (2)—

(i) after the definition of “the Act” there is inserted—

““the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;”(5);

(ii) in each of the definitions of “dental officer”, “General Manager”, “lay person”, “list of professional persons” and “statement of case”, and in paragraph (a) of the definition of “lay member”, after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;

(iii) for the definition of “doctor” there is substituted—

““doctor” means a fully registered medical practitioner including an ophthalmic medical practitioner;”;

(iv) in the definition of “lay member” for the words “service committee” there is substituted “discipline committee”;

(v) after the definition of “ophthalmic medical practitioner” there is inserted—

““ophthalmic officer” means an ophthalmic medical practitioner, ophthalmic optician or ophthalmologist in the service of the Agency;”;

(vi) after the definition of “practitioner”(6) there is inserted—

““primary care NHS trust” means an NHS trust to which certain functions referred to in section 12AA of the Act are delegated by the Board”(7).

(3) In paragraph (4), for “paragraph (1)” there is substituted “paragraph (2)”.

Amendment of regulation 2 of the principal Regulations

4. In regulation 2 of the principal Regulations (establishment of committees)(8), in paragraph (4) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

Amendment of regulation 3 of the principal Regulations

5. In regulation 3 of the principal Regulations (provisions relating to the start of disciplinary proceedings)(9), in paragraphs (1), (3), (4), (5) and (7) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

(5) Section 10 was amended by the Health Act 1999 (c. 8), Schedule 4, paragraph 44.

(6) The definition of “practitioner” was substituted by S.I.1998/1424.

(7) Section 12AA was inserted into the National Health Service (Scotland) Act 1978 (c. 29) by the Health Act 1999 (c. 8), section 47.

(8) Regulation 2 was substituted by S.I.1996/938.

(9) Regulation 3 was substituted by S.I.1996/938.

Amendment of regulation 4 of the principal Regulations

6. In regulation 4 of the principal Regulations (referral to discipline committee)(10)–
- (a) in paragraph (1) after the words “Health Board” in the first place where they occur there is inserted “or primary care NHS trust”;
 - (b) in paragraph (2)–
 - (i) after the words “Health Board” in the first place where they occur there is inserted “or primary care NHS trust”; and
 - (ii) after the words “Health Board” in the third place where they occur there is inserted “which has delegated functions to the primary care NHS trust”.

Amendment of regulation 5 of the principal Regulations

7. In regulation 5 of the principal Regulations (time limits)(11)–
- (a) in paragraphs (1), (2), (3)(b)(ii), 3(b)(iii) and (4) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;
 - (b) in paragraph (3)(a) the words “, ophthalmic medical practitioner, optician” are omitted;
 - (c) after paragraph (3)(a) there is inserted–
 - “(aa) in the case of an ophthalmic medical practitioner or optician, 13 weeks after the event or matter or after the latest in a series of events or matters which are the subject of the allegation.”.
 - (d) in paragraph (4) for the words “Where the Board” there is substituted “Where the Practice Board”.

Amendment of regulation 6 of the principal Regulations

8. In regulation 6 of the principal Regulations (investigations by discipline committees)(12), in paragraph (3) after the words “Health Board” there is inserted “or primary care NHS trust”.

Amendment of regulation 7 of the principal Regulations

9. In regulation 7 of the principal Regulations (determination of appropriate Health Board)(13)–
- (a) in the heading after the words “Health Board” there is inserted “or primary care NHS trust”;
 - (b) in paragraphs (1), (2), (3), (4), (5), (7), (8), (9) and (10) after the words “Health Board” in each place where they occur and in paragraph (6) after those words in the first place where they occur there is inserted “or primary care NHS trust”.

Amendment of regulation 9 of the principal Regulations

10. In regulation 9 of the principal Regulations (procedure on appeal)(14) after the words “Health Board” in each place where they occur and in paragraph (2) after the words “that Board” there is inserted “or primary care NHS trust”.

(10) Regulation 4 was substituted by [S.I.1996/938](#).

(11) Regulation 5 was substituted by [S.I.1996/938](#).

(12) Regulation 6 was substituted by [S.I.1996/938](#).

(13) Regulation 7 was substituted by [S.I.1996/938](#).

(14) Regulation 9 was substituted by [S.I.1996/938](#).

Amendment of regulation 16 of the principal Regulations

11. In regulation 16 of the principal Regulations (investigation of apparently excessive prescribing by doctors)–

- (a) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;
- (b) in paragraphs (7) and (8) for the words “service committee” there is substituted “discipline committee”.

Amendment of regulation 25A of the principal Regulations

12. In regulation 25A of the principal Regulations (applications for interim suspension)(**15**)–

- (a) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;
- (b) in paragraph (4) the word “with” is omitted.

Amendment of regulation 27 of the principal Regulations

13. In regulation 27 of the principal Regulations (notices to be sent to respondent and any other Health Board in case of an inquiry)–

- (a) in the heading after the words “Health Board” there is inserted “or primary care NHS trust”;
- (b) in paragraphs (2) and (3)(b) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

Amendment of regulation 43B of the principal Regulations

14. In regulation 43B of the principal Regulations (publication of information about applications for preferential treatment)(**16**) after the words “Health Boards” there is inserted “or primary care NHS trusts”.

Amendment of regulation 46 of the principal Regulations

15. In regulation 46 of the principal Regulations (attendance by member of Council on Tribunals)–

- (a) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;
- (b) in paragraphs (b) and (c) for the words “service committee” there is substituted “discipline committee”.

Amendment of Schedule 1 to the principal Regulations

16. In Schedule 1 (constitution of discipline committees)(**17**) in paragraphs 6(3) and 8(b)(iv) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

(15) Regulation 25A was inserted by [S.I.1995/3201](#).

(16) Regulation 43B was inserted by [S.I.1998/657](#).

(17) Schedule 1 was substituted by [S.I.1996/938](#).

Amendment of Schedule 1A to the principal Regulations

17. In Schedule 1A to the principal Regulations (procedure for investigation by discipline committees)(18)–

- (a) in paragraphs 1, 2, 3, 6, 7 and 9 after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”;
- (b) in paragraph 4(2) after the words “Health Board” in the second place where they occur and in paragraph 4(4) in the second and third places where they occur there is inserted “or primary care NHS trust”;
- (c) in paragraph 5(2)(a) and (c) after the words “Health Board” there is inserted “or primary care NHS trust”.

Amendment of Schedule 3 to the principal Regulations

18. In Schedule 3 to the principal Regulations (rules of procedure applicable to determination of matters referred to referees under regulation 18) after the words “Health Board” in each place where they occur there is inserted “or primary care NHS trust”.

Amendment of Schedule 4 to the principal Regulations

19. The undernoted forms in Schedule 4 to the principal Regulations (forms for use in connection with representations and applications) shall be amended as follows:–

- (a) in Form 1 (representation) after the words “Health Board” there is inserted “or primary care NHS trust”;
- (b) in Form 2 (notice of representation)
 - (i) after the words “Health Board” there is inserted “or primary care NHS trust”;
 - (ii) in note (1) after the words “Health Board” there is inserted “or primary care NHS trust”;
- (c) in Form 3 (notice of representation)–
 - (i) after the words “Health Board(s)(4)” there is inserted “or primary care NHS trust(s)(4)”;
 - (ii) in paragraphs 3 and 5 after the words “Health Board” there is inserted “or primary care NHS trust”;
 - (iii) in notes (1), (4) and (6) after the words “Health Board” there is inserted “or primary care NHS trust”;
 - (iv) in note (4A) to the form after the word “representation” there is inserted “under paragraph 3 of Schedule 1 to the National Health Service (Primary Care) Act 1997”;
- (d) in Form 4 (notice of inquiry)–
 - (i) after the words “Health Board” in the first place where they occur there is inserted “or primary care NHS trust”;
 - (ii) in notes (1), (4) and (5) after the words “Health Board” there is inserted “or primary care NHS trust”;
- (e) in Form 5 (application to the tribunal for removal of disqualification) after the words “Health Board” there is inserted “or primary care NHS trust”;
- (f) in Form 6 (notice of an application)–

- (i) after the words “Health Board” in the first place where they occur there is inserted “or primary care NHS trust”;
- (ii) in note (1) after the words “Health Board” there is inserted “or primary care NHS trust”;
- (g) in Form 7 (notice of inquiry)–
 - (i) after the words “Health Board” in the first place where they occur there is inserted “or primary care NHS trust”;
 - (ii) in note (1) after the words “Health Board” there is inserted “or primary care NHS trust”.

Insertion of new regulation 20

20. After regulation 19 of the principal Regulations (determination whether a substance is a drug and recovery of cost) there is inserted–

“Investigation of excessive testing of sight and/or excessive issuing of vouchers

20.—(1) The ophthalmic officer shall from time to time examine the sight test and optical voucher forms which have been completed by an ophthalmic medical practitioner or an ophthalmic optician in respect of eligible persons.

(2) Where it appears to the ophthalmic officer that the testing of sight and/or issuing of optical vouchers in excess of what was reasonably necessary has taken place, he shall prepare a report for submission to the Health Board or primary care NHS trust stating–

- (a) the full facts of the case as ascertained by him; and
- (b) whether he is of the opinion that the testing of sight or the issuing of vouchers was in excess of what was clinically necessary and if so, on what grounds.

(3) On receipt of the report, the Health Board or primary care NHS trust shall consider it in terms of regulation 3(1).”**(19)**.

Revocation

21. Regulation 12(2) of the National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1995**(20)** is hereby revoked.

St Andrew’s House,
Edinburgh
7th September 1999

SUSAN C DEACON
A member of the Scottish Executive

(19) Regulation 3 was substituted by [S.I.1996/938](#).

(20) [S.I.1995/3201](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992 ([S.I.1992/434](#)) (“the principal Regulations”). These Regulations amend the principal Regulations to include reference, where appropriate, to primary care NHS Trusts to which responsibility for certain functions relating to the provision of services mentioned in Part II of the National Health Service (Scotland) Act 1978 ([c. 29](#)) are delegated by the Health Boards. They insert a new definition of “primary care NHS Trust” (regulation 2).

They also amend the principal Regulations to introduce a provision whereby excessive sight testing or excessive issuing of vouchers may be investigated (regulation 20). The Regulations revoke the transitional provisions in regulation 12(2) of the National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1995 ([S.I.1995/3201](#)) (regulation 21). The Regulations also make minor drafting amendments to the principal Regulations.