
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 115

The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

PART 1

General

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 and shall come into force on 1st April 2004.

Interpretation

2.—(1) In these Regulations—

“the Act” means the National Health Service (Scotland) Act 1978(1);

“the 2004 Act” means the Primary Medical Services (Scotland) Act 2004(2);

“the 2003 Order” means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(3);

“additional services” means one or more of—

- (a) cervical screening services,
- (b) contraceptive services,
- (c) vaccinations and immunisations,
- (d) childhood vaccinations and immunisations,
- (e) child health surveillance services,
- (f) maternity medical services, and
- (g) minor surgery;

“adjudicator” means the Scottish Ministers or a panel of 3 persons appointed by the Scottish Ministers under paragraph 91 of Schedule 5;

“appliance” means an appliance which is included in a list for the time being approved by the Scottish Ministers for the purposes of section 27(1) of the Act(4);

(1) 1978 c. 29.

(2) 2004 asp 1.

(3) S.I.2003/1250.

(4) Section 27 was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9 the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28), section 3, the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 44, the Health and Social Care Act 2001 (c. 15), section 44 and S.I. 2003/1590.

“approved medical practice” shall be construed in accordance with section 11(4) of the Medical Act 1983⁽⁵⁾;

“area medical committee” means the committee of that name recognised under section 9 of the Act (local consultative committees) in the area of the Health Board;

“area pharmaceutical committee” means the committee of that name recognised under section 9 of the Act (local consultative committee) in the area of the Health Board;

“assessment panel” means a committee or subcommittee of a Health Board (“the first Health Board”) (other than the Health Board (“the second Health Board”) which is a party or prospective party to the contract in question) appointed by the first Health Board at the request of the second Health Board to exercise functions under paragraph 2, 3, 4 or 5 of Schedule 2 or paragraph 31 or paragraph 35 of Schedule 5 and which shall consist of

- (a) the Chief Executive of the first Health Board or an Executive Director of that Health Board nominated by that Chief Executive;
- (b) a person representative of patients in an area other than that of the second Health Board; and
- (c) a person representative of the area medical committee which does not represent practitioners in the area of the second Health Board;

“care home service” has the same meaning as in section 2(3) of the Regulation of Care (Scotland) Act 2001⁽⁶⁾;

“CCT” means Certificate of Completion of Training awarded under article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in article 20(3)(a) of that Order;

“cervical screening services” means the services described in paragraph 2(2) of Schedule 1;

“charity trustee” means one of the persons having the general control and management of the administration of a charity;

“child” means a person who has not attained the age of 16 years;

“child health surveillance services” means the services described in paragraph 6(2) of Schedule 1;

“childhood vaccinations and immunisations” means the services described in paragraph 5(2) of Schedule 1;

“closed” in relation to the contractor’s list of patients, means closed to applications for inclusion in the list of patients other than from immediate family members of registered patients;

“contraceptive services” means the services described in paragraph 3(2) of Schedule 1;

“contract” means, except where the context otherwise requires, a general medical services contract under section 17J of the Act⁽⁷⁾ (Health Boards power to enter into general medical services contracts);

“contractor” means a person with whom a Health Board enters into a contract;

“contractor’s list of patients” means the list prepared and maintained by a Health Board under paragraph 14 of Schedule 5;

“core hours” means the period beginning at 8 am and ending at 6.30 pm on any working day;

“dispensing services” means the provision of drugs, medicines and appliances;

(5) 1983 c. 54; section 11(4) was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 35(4) and Schedule 2, paragraph 61(2).

(6) 2001 asp 8.

(7) Section 17J was inserted by the 2004 Act section 4.

“disqualified” means, unless the context otherwise requires, local or national disqualification by the Tribunal (or a decision under provisions in force in England, Wales or Northern Ireland corresponding to local or national disqualification), but does not include conditional disqualification;

“Drug Tariff” means the statement published under regulation 9 (payments to pharmacists and standards of drugs and appliances) of the Pharmaceutical Regulations;

“enhanced services” are—

- (a) services other than essential services, additional services or out of hours services; or
- (b) essential services or additional services or out of hours services or an element of such a service that a contractor agrees under the contract to provide in accordance with specifications set out in a plan, which requires of the contractor an enhanced level of service provision compared to that which it needs generally to provide in relation to that service or element of service;

“essential services” means the services required to be provided in accordance with regulation 15;

“general medical practitioner” means—

- (a) from the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the General Practitioner Register otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order, and
- (b) until the coming into force of that article, a medical practitioner who is either—
 - (i) until the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, suitably experienced within the meaning of section 21(2) of the Act, section 31(2) of the National Health Service Act 1977⁽⁸⁾ or Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978⁽⁹⁾; or
 - (ii) upon the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, an eligible general practitioner pursuant to that paragraph other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to the 2003 Order;

“General Practitioner Register” means the register kept by the General Medical Council under article 10 of the 2003 Order;

“global sum” has the meaning given to it in the GMS Statement of Financial Entitlements;

“GMS Statement of Financial Entitlements” means the directions given by the Scottish Ministers under section 17M of the Act⁽¹⁰⁾ (payments by Health Boards under general medical services contracts);

“GP Registrar”—

- (a) until the coming into force of article 5 of the 2003 Order, means a medical practitioner who is being trained in general practice by a medical practitioner who—
 - (i) has been approved for that purpose by the Joint Committee on Postgraduate Training for General practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998⁽¹¹⁾; and
 - (ii) performs primary medical services, and

⁽⁸⁾ 1977 c. 49.

⁽⁹⁾ S.I. 1978/1907.

⁽¹⁰⁾ Section 17M was inserted by the 2004 Act, section 4. The directions in respect of the financial year 2004–05 will be given before 31st March 2004 and will be available on <http://www.show.scot.nhs.uk>

⁽¹¹⁾ 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23.

- (b) from the coming into force of that article, means a medical practitioner who is being trained in general practice by a GP Trainer whether as part of training leading to the award of a CCT or otherwise;

“GP trainer” means a general medical practitioner who is—

- (a) until the coming into force of article 4(5)(d) of the 2003 Order, approved as a GP Trainer by the Joint Committee on Postgraduate Training for general practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998; or
- (b) from the coming into force of that article, approved by the Postgraduate Medical Education and Training Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i) of that Order;

“Health and Social Services Board” means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹²⁾;

“Health and Social Services trust” means a Health and Social Services trust established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991⁽¹³⁾;

“Health Authority” means a Health Authority established under section 8 of the National Health Service Act 1977⁽¹⁴⁾;

“Health Board” means, unless the context otherwise requires, the Health Board which is a party, or prospective party, to a contract;

“health care professional” has the same meaning as in section 17L(5) of the Act⁽¹⁵⁾ and “health care profession” shall be construed accordingly;

“health service body” means any person or body referred to in section 17A(2) of the Act (NHS contracts)⁽¹⁶⁾ and includes, except where otherwise expressly provided, any person who is to be regarded as a health service body in accordance with regulation 10;

“immediate family member” means—

- (a) a spouse,
- (b) a person (whether or not of the opposite sex) whose relationship with the registered patient has the characteristics of the relationship between husband and wife,
- (c) a parent or step-parent,
- (d) a son,
- (e) a daughter,
- (f) a child of whom the registered patient is—
- (i) the guardian, or
- (ii) the carer duly authorised by the local authority to whose care the child has been committed under the Children (Scotland) Act 1995⁽¹⁶⁾; or
- (g) a grandparent;

“independent nurse prescriber” means a person—

⁽¹²⁾ S.I. 1972/1265 (N.I. 14).

⁽¹³⁾ S.I. 1991/194 (N.I.1).

⁽¹⁴⁾ Section 17L(5) was inserted by the 2004 Act, section 4.

⁽¹⁵⁾ Section 17A(2) was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 30 and amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 102(2), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 36, the Health Act 1999 (c. 8), Schedule 4, paragraph 46 and S.I. 1991/195.

⁽¹⁶⁾ 1995 c. 36.

⁽¹⁶⁾ 1995 c. 36.

- (a) who is either engaged or employed by the contractor or, where the contractor is a partnership, is a partner in that partnership;
- (b) who is registered in the Nursing and Midwifery Register, and
- (c) in respect of whom an annotation is also recorded in that register signifying that the person is qualified to order drugs, medicines and appliances from-
 - (i) the Nurse Prescribers' Formulary for District Nurses and Health Visitors in Part 8B of the Drug Tariff, or
 - (ii) the Nurse Prescribers' Extended Formulary in Part 8C of the Drug Tariff;

“licensing authority” shall be construed in accordance with section 6(3) of the Medicines Act 1968⁽¹⁷⁾;

“licensing body” means any body that licenses or regulates any profession;

“limited partnership” means a partnership registered in accordance with section 5 of the Limited Partnerships Act 1907⁽¹⁸⁾;

“list” has unless the context otherwise requires the meaning assigned to it in section 29(8) of the Act⁽¹⁹⁾ and includes a list corresponding to such a list in England, Wales or Northern Ireland;

“Local Health Board” means a Local Health Board established under section 16BA of the National Health Service Act 1977⁽²⁰⁾ (local health boards);

“local or national disqualification” has the meaning indicated in section 29B(2) of the Act⁽²¹⁾;

“maternity medical services” means the services described in paragraph 7(1) of Schedule 1;

“medical card” means a card issued by a Health Board, Primary Care trust, Local Health Board, Health Authority or Health and Social Services Board to a person for the purpose of enabling that person to obtain, or establishing the person’s title to receive, primary medical services;

“medical officer” means a medical practitioner who is—

- (a) employed or engaged by the Department for Work and Pensions, or
- (b) provided by an organisation in pursuance of a contract entered into with the Secretary of State for Work and Pensions;

“Medical Register” means the registers kept under section 2 of the Medical Act 1983⁽²²⁾;

“minor surgery” means the services described in paragraph 8(2) of Schedule 1;

“national disqualification” means—

- (a) a national disqualification by the Tribunal; or
- (b) a decision under provisions in force in England, Wales or Northern Ireland corresponding to a national disqualification by the Tribunal;

“NHS contract” means a contract—

- (a) which is a general medical services contract under section 17J of the Act⁽²³⁾; and

(17) 1968 c. 67.

(18) 1907 c. 24.

(19) Section 29(8) was substituted by the Health Act 1999 (c. 8), section 58(1) and amended by the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), Schedule 2, paragraph 2 and the 2004 Act, section 5(3).

(20) 1977 c. 49. Section 16BA was inserted by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) section 6.

(21) Section 29B(2) was inserted by the Health Act 1999 (c. 8), section 58 and amended by the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), schedule 2, paragraph 2 and the 2004 Act, section 5(3).

(22) 1983 c. 54; section 2 was amended by S.I. 1996/1591 and 2002/3135.

(23) Section 17J was inserted by the 2004 Act, section 4.

- (b) which is a NHS contract within the meaning of section 17A(3) of the Act⁽²⁴⁾ as a consequence of which the contractor is being regarded as a health service body pursuant to Regulation 10(1) or (5);

“the NHS dispute resolution procedure” means the procedure for resolution of disputes specified in paragraphs 91 and 92 of Schedule 5;

“NHS foundation trust” has the same meaning as in section 1 of the Health and Social Care (Community Health and Standards) Act 2003⁽²⁵⁾;

“NHS trust” means, in England and Wales, a National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990⁽²⁶⁾;

“normal hours” means those days and hours on which and the times at which services under the contract are normally made available and may be different for different services;

“Nursing and Midwifery Register” means the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001⁽²⁷⁾;

“open”, in relation to the contractor’s list of patients, means open to applications from patients in accordance with paragraph 15 of Schedule 5;

“out of hours period” means—

- (a) the period beginning at 6.30 pm on any day from Monday to Thursday and ending at 8 am on the following day;
- (b) the period between 6.30 pm on Friday and 8 am on the following Monday; and
- (c) Christmas Day, New Year’s Day and any other public or local holiday,

and “part” of an out of hours period means any part of any one or more of the periods described in sub-paragraphs (a) to (c);

“out of hours services” means services required to be provided in all or part of the out of hours period which—

- (a) would be essential services if provided in core hours; or
- (b) are included in the contract as additional services funded under the global sum;

“parent” includes, in relation to any child, any adult who, in the opinion of the contractor, is for the time being discharging in respect of that child the obligations normally attaching to a parent in respect of a child;

“patient” means—

- (a) a registered patient,
- (b) a temporary resident,
- (c) persons to whom the contractor is required to provide immediately necessary treatment under regulation 15(6) or (8) respectively,
- (d) any other person to whom the contractor has agreed to provide services under the contract,
- (e) any person for whom the contractor is responsible under regulation 31, and
- (f) any person for whom the contractor is responsible under arrangements made with another contractor in accordance with Schedule 5

⁽²⁴⁾ Section 17A(3) was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 30 and amended by the Health Act 1999 (c. 8), Schedule 3, paragraph 46(b) and Schedule 4.

⁽²⁵⁾ 2003 c. 43.

⁽²⁶⁾ 1990 c. 19.

⁽²⁷⁾ S.I. 2002/253.

“Pharmaceutical Regulations” means the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(28);

“pharmacist” means—

- (a) a registered pharmacist within the meaning of the Medicines Act 1968(29) who provides pharmaceutical services, or
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of that Act(30) who provides such services, or
- (c) a supplier of appliances,

who is included in the list of a Health Board under section 27 (arrangements for provision of pharmaceutical services) of the Act;

“the POM Order” means the Prescription Only Medicines (Human Use) Order 1997(31);

“practice” means the business operated by the contractor for the purpose of delivering services under the contract;

“practice area” means the area referred to in regulation 18(1)(d);

“practice leaflet” means a leaflet drawn up in accordance with paragraph 69 of Schedule 5;

“practice premises” means an address specified in the contract as one at which services are to be provided under the contract;

“prescriber” means—

- (a) a medical practitioner,
- (b) an independent nurse prescriber, and
- (c) a supplementary prescriber,

who is either engaged or employed by the contractor or, where the contractor is a partnership, is a partner in that partnership;

“prescription form” means a form provided by the Health Board and issued by a prescriber to enable a person to obtain pharmaceutical services;

“prescription only medicine” means a medicine referred to in article 3 of the POM Order (medicinal products on prescription only);

“Primary Care trust” means a Primary Care trust established under section 16A of the National Health Service Act 1977(32) (primary care trusts);

“primary medical services performers list” means the list of primary medical services performers prepared in accordance with regulations made under section 17P of the Act(33) (persons performing primary medical services);

“public or local holiday” means any public or local holiday which is agreed in writing between the Health Board and the contractor and which shall, in aggregate, be no less than those available to NHS staff employed by the Health Board;

“registered patient” means—

- (a) a person who is recorded by the Health Board as being on the contractor’s list of patients, or

(28) S.I. 1995/414 as amended by S.I. 1996/840 and 1504, 1997/696, 1998/2224 and 3031 and S.S.I. 1999/57, 2001/70, 2002/111 and 153, 2003/296.

(29) 1968 c. 67.

(30) Section 69 was amended by the Statute Law (Repeals) Act 1993 (c. 50) and the Pharmacists (Fitness to Practise) Act 1997 (c. 19), Schedule 4, paragraph 5.

(31) S.I. 1997/1830 as amended by S.I. 1997/2044, 1998/108, 1178 and 2081, 1999/1044 and 3463, 2000/1917, 2889 and 3231, 2001/2777, 2889 and 3942, 2002/549 and 2469 and 2003/696.

(32) 1977 c. 49. Section 16A was inserted by the Health Act 1999 (c. 8), section 2(1).

(33) Section 17P was inserted by section 5(2) of the 2004 Act.

- (b) a person whom the contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Health Board and who has not been notified by the Health Board as having ceased to be on that list;

“relevant register” means—

- (a) in relation to a nurse, the Nursing and Midwifery Register; and
- (b) in relation to a pharmacist, the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954⁽³⁴⁾ or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976⁽³⁵⁾;

“restricted availability appliance” means an appliance which is approved for particular categories of persons or particular purposes only;

“section 17C provider” means a person or body who is providing primary medical services in accordance with an agreement pursuant to section 17C of the Act⁽³⁶⁾;

“Scheduled drug” means—

- (a) a drug, medicine or other substance specified in any directions given by the Scottish Ministers under section 17N(6) of the Act⁽³⁷⁾ as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the contract; or
- (b) except where the conditions in paragraph 40(2) of Schedule 5 are satisfied a drug, medicine or other substance which is specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug, medicine or other substance which can only be ordered for specified patients and specified purposes;

“supplementary prescriber” means a person—

- (a) who is either engaged or employed by the contractor or, where the contractor is a partnership, is a partner in that partnership; and
- (b) whose name is registered in—
- (i) the Nursing and Midwifery Register,
- (ii) the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954; or
- (iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976, and

against whose name is recorded in the relevant register an annotation signifying that the person is qualified to order drugs, medicines and appliances as a supplementary prescriber;

“temporary resident” means a person accepted by the contractor as a temporary resident under paragraph 16 of Schedule 5 and for whom the contractor’s responsibility has not been terminated in accordance with that paragraph;

“the Tribunal” has the meaning indicated in section 29 of the Act⁽³⁸⁾ (the NHS Tribunal);

“working day” means any day apart from Saturday, Sunday, Christmas Day, New Year’s Day and any other public or local holiday;

⁽³⁴⁾ 1954 c. 61.

⁽³⁵⁾ S.I. 1976/1213 (N.I. 22).

⁽³⁶⁾ Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and was amended by the 2004 Act, section 2(2).

⁽³⁷⁾ Section 17N was inserted into the Act by section 4 of the 2004 Act.

⁽³⁸⁾ Section 29 was substituted by the Health Act 1999 (c. 8), section 58(1) and amended by the Community Care and Health (Scotland) Act 2002 asp 5, schedule 1, paragraph 2(4) and by the 2004 Act, schedule, paragraph 1(12) and (13).

“writing” includes, unless otherwise expressly provided, transmission by electronic means and “written” shall be construed accordingly.

- (2) In these Regulations, the use of the term “it” in relation to—
- (a) the adjudicator shall be deemed to refer either to the Scottish Ministers or to the panel of 3 persons appointed by them, as the case may be; and
 - (b) a contractor shall be deemed to include a reference to a contractor who is an individual medical practitioner,

and related expressions shall be construed accordingly.

(3) Any reference in these Regulations to a numbered regulation or Schedule or to a numbered paragraph of such a regulation or Schedule is, unless otherwise expressly provided, a reference to a regulation or Schedule bearing that number in these Regulations or, as the case may be, to a paragraph bearing that number in such a regulation or Schedule.

PART 2

Contractors

Conditions: general

3. Subject to the provisions of any order made by the Scottish Ministers under section 7 of the 2004 Act (ancillary provisions), a Health Board may only enter into a contract if the conditions set out in regulations 4 and 5 are met.

Conditions relating solely to medical practitioners

4.—(1) In the case of a contract to be entered into with a medical practitioner, that practitioner must be a general medical practitioner.

- (2) In the case of a contract to be entered into with a partnership—
- (a) at least one partner (who must not be a limited partner) must be a general medical practitioner; and
 - (b) any other partner who is a medical practitioner must—
 - (i) be a general medical practitioner, or
 - (ii) be employed, in Scotland, by a Health Board, in England and Wales, by a Primary Care trust, Local Health Board, NHS trust, a NHS Foundation trust, or, in Northern Ireland, by a Health and Social Services Trust.
- (3) In the case of a contract to be entered into with a company limited by shares—
- (a) at least one share in the company must be legally and beneficially owned by a general medical practitioner; and
 - (b) any other share or shares in the company that are legally and beneficially owned by a medical practitioner must be so owned by—
 - (i) a general medical practitioner, or
 - (ii) a medical practitioner who is employed, in Scotland, by a Health Board, in England and Wales, by a Primary Care Trust, Local Health Board, NHS trust, or a NHS foundation trust, or in Northern Ireland, by a Health and Social Services trust.

General conditions relating to all contracts

- 5.—(1) It is a condition in the case of a contract to be entered into—
- (a) with a medical practitioner, that the medical practitioner;
 - (b) with a partnership, that any member of the partnership or the partnership; and
 - (c) with a company limited by shares, that—
 - (i) the company,
 - (ii) any person legally and beneficially owning a share in the company, and
 - (iii) any director or secretary of the company,must not fall within paragraph (2).
- (2) A person falls within this paragraph if—
- (a) the person is the subject of a national disqualification;
 - (b) subject to paragraph (3), the person is disqualified or suspended (otherwise than by an interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;
 - (c) within the period of 5 years prior to the signing of the contract or commencement of the contract, whichever is the earlier, the person has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body, unless the person has subsequently been employed by that health service body or another health service body and paragraph (4) applies to that person or that dismissal was the subject of a finding of unfair dismissal by any competently established tribunal or court;
 - (d) within the period of 5 years prior to signing the contract or commencement of the contract, whichever is the earlier, the person has been disqualified from a list anywhere in the United Kingdom unless the person's name has subsequently been included in such a list;
 - (e) the person has been convicted in the United Kingdom of murder;
 - (f) the person has been convicted in the United Kingdom of a criminal offence, other than murder, and has been sentenced to a term of imprisonment of over six months;
 - (g) subject to paragraph (5), the person has been convicted elsewhere of an offence which would, if committed in Scotland, constitute—
 - (i) murder; or
 - (ii) a criminal offence, other than murder, and been sentenced to a term of imprisonment of over six months;
 - (h) the person has been convicted of an offence referred to in Schedule 1 to the Criminal Procedure (Scotland) Act 1995⁽³⁹⁾ (offences against children under the age of 17 years to which special provisions apply) or Schedule 1 to the Children and Young Persons Act 1933⁽⁴⁰⁾ (Offences against children and young persons with respect to which special provisions apply);
 - (i) the person has—
 - (i) had sequestration of the person's estate awarded or been adjudged bankrupt unless (in either case) the person has been discharged or the bankruptcy order has been annulled;

⁽³⁹⁾ 1995 c. 46.

⁽⁴⁰⁾ 1933 c. 12, as amended by the [Criminal Justice Act 1988 \(c 33\)](#), section 170, Schedule 15, paragraph 8 and Schedule 16, paragraph 16 and the [Sexual Offences Act 1956 \(c. 69\)](#), sections 48 and 51 and Schedules 3 and 4; and as modified by the [Criminal Justice Act 1988](#), section 170(1), Schedule 15, paragraph 9.

- (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986⁽⁴¹⁾ unless that order has ceased to have effect or has been annulled; or
 - (iii) made a composition or arrangement with, or granted a trust deed for, the person's creditors unless the person has been discharged in respect of it;
 - (j) an administrator, administrative receiver or receiver is appointed in respect of it;
 - (k) the person has been-
 - (i) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of the Court of Session to deal with management of charities)⁽⁴²⁾, from being concerned in the management or control of any body; or
 - (ii) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which the person was responsible or to which the person was privy, or which the person by that person's conduct contributed to or facilitated;
 - (l) the person is subject to a disqualification order under the Company Directors Disqualification Act 1986⁽⁴³⁾, the Companies (Northern Ireland) Order 1986⁽⁴⁴⁾ or to an order made under section 429(2)(b) of the Insolvency Act 1986⁽⁴⁵⁾ (failure to pay under county court administration order); or
 - (m) the person would fall within regulation 5(2)(d) of the National Health Service (General Medical Services Contracts) Regulations 2004⁽⁴⁶⁾.
- (3) A person shall not fall within paragraph (2)(b) where the Health Board is satisfied that the disqualification or suspension from practising is imposed by a licensing body outside the United Kingdom and it does not make the person unsuitable to be—
- (a) a contractor;
 - (b) a partner, in the case of a contract with a partnership;
 - (c) in the case of a contract with a company limited by shares—
 - (i) a person legally and beneficially holding a share in the company, or
 - (ii) a director or secretary of the company,as the case may be.
- (4) Where a person has been employed as a member of a health care profession, any subsequent employment must also be as a member of that profession.
- (5) A person shall not fall within paragraph (2)(g) where the Health Board is satisfied that the conviction does not make the person unsuitable to be—
- (a) a contractor;
 - (b) a partner, in the case of a contract with a partnership;
 - (c) in the case of a contract with a company limited by shares—
 - (i) a person legally and beneficially holding a share in the company; or
 - (ii) a director or secretary of the company,

⁽⁴¹⁾ 1986 c. 45. Schedule 4A was inserted by section 257 of and Schedule 20 to the Enterprise Act 2002 (c. 40).

⁽⁴²⁾ 1990 c. 40.

⁽⁴³⁾ 1986 c. 46 as amended by the Insolvency Act 2000 (2000 c. 39).

⁽⁴⁴⁾ S.I. 1986/1032 (N.I.6).

⁽⁴⁵⁾ 1986 c. 45.

⁽⁴⁶⁾ S.I. 2004/291.

as the case may be.

(6) In this regulation, “health service body” does not include any person who is to be regarded as a health service body in accordance with regulation 10.

Reasons

6.—(1) Where a Health Board is of the view that the conditions in regulation 4 or 5 for entering into a contract are not met, it shall notify in writing the person intending to enter into the contract of its view and its reasons for that view and of that person’s right of appeal under regulation 7.

(2) The Health Board shall also notify in writing of its view and its reasons for that view—

- (a) any partner in the partnership that is notified under paragraph (1); or
- (b) any person legally and beneficially owning a share in, or a director or secretary of, a company that is notified under paragraph (1) where its reasons for that view relates to that person or persons.

Appeal

7. A person who has been served with a notice under regulation 6(1) may appeal to the Scottish Ministers against the decision of the Health Board by giving notice in writing to the Scottish Ministers within the period of 28 days beginning on the day that the Health Board served its notice.

Prescribed period under section 17L(6) of the Act

8. The period prescribed for the purposes of section 17L(6) of the Act (eligibility to be contractor under general medical services contract)⁽⁴⁷⁾ is six months.

PART 3

Pre-contract Dispute Resolution

Pre-contract disputes

9.—(1) If, in the course of negotiations intending to lead to a contract, the prospective parties to that contract are unable to agree on a particular term of the contract, either party may refer the terms of the proposed contract to the Scottish Ministers to consider and determine the matter.

(2) Disputes referred to the Scottish Ministers in accordance with paragraph (1) shall be considered and determined in accordance with—

- (a) the NHS dispute resolution procedure, as if—
 - (i) in paragraph 91(3)(b) of Schedule 5, “contract” read “terms of the proposed contract”;
 - (ii) paragraph 92(2) of Schedule 5 were omitted; and
- (b) paragraph (3) of this regulation.

(3) In the case of a dispute referred to the Scottish Ministers under paragraph (1), the determination of the adjudicator—

- (a) may specify terms to be included in the proposed contract;

⁽⁴⁷⁾ Section 17L was inserted by the 2004 Act, section 4.

- (b) may require the Health Board to proceed with the proposed contract but may not require the proposed contractor to proceed with the proposed contract; and
- (c) shall be binding upon the prospective parties to the contract.

PART 4

Health Service Body Status

Health service body status

10.—(1) Where a proposed contractor elects in a written notice served on the Health Board at any time prior to the contract being entered into to be regarded as a health service body for any purposes of section 17A of the Act(48) (NHS Contracts), it shall be so regarded from the date on which the contract is entered into but only for the purposes of that contract.

(2) Where a contract is made with a partnership, and that partnership is to be regarded as a health service body in accordance with paragraph (1) or (5), the contractor shall, subject to paragraph (4), continue to be regarded as a health service body for any purposes of section 17A of the Act for as long as that contract continues irrespective of any change in the membership of the partnership.

(3) A contractor may at any time request in writing a variation of the contract to include or remove provision from the contract that the contract is an NHS contract and, if the contractor does so—

- (a) the Health Board shall agree to the variation; and
- (b) the procedure in paragraph 94(1) of Schedule 5 shall apply.

(4) If, pursuant to paragraph (4), the Health Board agrees to the variation to the contract, the contractor shall—

- (a) be regarded, or
- (b) subject to paragraph (6), cease to be regarded,

as a health service body for any purposes of section 17A of the Act from the date that variation is to take effect pursuant to paragraph 94(1) of Schedule 5.

(5) Subject to paragraph (6), a contractor shall cease to be a health service body for the purposes of section 17A of the Act if the contract terminates.

(6) Where a contractor ceases to be a health service body pursuant to—

- (a) paragraph (4), the contractor shall, if the contractor or the Health Board has referred any matter to the Scottish Ministers for determination under section 17A(4) of the Act before the contractor ceases to be a health service body, be bound by the determination of the adjudicator;
- (b) paragraph (5), it shall continue to be regarded as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced—
 - (i) before the termination of the contract, or
 - (ii) after the termination of the contract, whether in connection with or arising out of the termination of the contract or otherwise,
- (c) for which purposes it ceases to be such a body on the conclusion of that procedure.

(7) If, pursuant to paragraph (1) or (4), a contractor is to be regarded as a health service body, section 17A has effect in relation to such a person subject to the following modifications:—

(48) Section 17A was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 30 and amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 102(2), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 36, the Health Act 1999 (c. 8), Schedule 4, paragraph 46 and S.I. 1991/195.

- (a) for subsection (4), there shall be substituted the following subsection:—
- “Whether or not an arrangement which constitutes an NHS contract would, apart from this subsection, be a contract in law, it shall not be regarded for any purpose as giving rise to contractual rights or liabilities but, if any dispute arises out of or in connection with the NHS contract, either party may refer the matter to the Scottish Ministers for determination in accordance with the NHS dispute resolution procedure specified in paragraphs 91 and 92 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004.”;
- (b) after subsection (4), there shall be inserted the following subsection:—
- “(4A) In subsection (4), the reference to “any dispute arises out of or in connection with the NHS contract” includes any dispute arising out of or in connection with the termination of the contract.”;
- (c) subsections (5), (6) and (7) shall not apply;
- (d) in subsections (8) and (9), for any reference to “the person appointed under subsection (6)”, there shall be substituted a reference to “the panel appointed by the Scottish Ministers under paragraph 91 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004”.

PART 5

Contracts: Mandatory Terms

Parties to the contract

- 11.** A contract must specify—
- (a) the names of the parties;
- (b) in the case of a partnership—
- (i) whether or not it is a limited partnership; and
- (ii) the names of the partners and, in the case of a limited partnership, their status as a general or limited partner; and
- (c) in the case of each party, the address to which official correspondence and notices should be sent.

NHS contracts

12. If the contractor is to be regarded as a health service body pursuant to regulation 10, the contract must state that it is an NHS contract.

Contracts with a partnership

13.—(1) Where the contract is with a partnership, the contract shall be treated as made with the partnership as it is from time to time constituted, and the contract shall make specific provision to this effect.

(2) Where the contract is with a partnership, the contractor must be required by the terms of the contract to ensure that any person who becomes a member of the partnership after the contract has come into force is bound automatically by the contract whether by virtue of a partnership deed or otherwise.

Duration

14.—(1) Except in the circumstances specified in paragraph (2), a contract must provide for it to subsist until it is terminated in accordance with the terms of the contract or the general law.

(2) The circumstances referred to in paragraph (1) are that the Health Board wishes to enter into a temporary contract for a period not exceeding twelve months for the provision of services to the former patients of a contractor, following the termination of that contractor's contract.

(3) Either party to a prospective contract to which paragraph (2) applies may, if they wish to do so, invite the area medical committee for the area of the Health Board to participate in the negotiations intended to lead to such a contract.

Essential services

15.—(1) For the purposes of section 17K(1) of the Act (Mandatory contract terms: provision of prescribed primary medical services)(49), the services which must be provided under a general medical services contract ("essential services") are the services described in paragraphs (3), (5), (6) and (8).

(2) Subject to regulation 20, a contractor must provide the services described in paragraphs (3) and (5) throughout core hours.

(3) The services described in this paragraph are services required for the management of its registered patients and temporary residents who are, or believe themselves to be—

- (a) ill, with conditions from which recovery is generally expected;
- (b) terminally ill; or
- (c) suffering from chronic disease,

delivered in the manner determined by the practice in discussion with the patient.

(4) For the purposes of paragraph (3)—

- (a) "disease" means a disease included in the list of three-character categories contained in the tenth revision of the International Statistical Classification of Diseases and Related Health Problems(50); and
- (b) "management" includes—
 - (i) offering consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and
 - (ii) the making available of such treatment or further investigation as is necessary and appropriate, including the referral of the patient for other services under the Act and liaison with other health care professionals involved in the patient's treatment and care.

(5) The services described in this paragraph are the provision of appropriate ongoing treatment and care to all registered patients and temporary residents taking account of their specific needs including—

- (a) the provision of advice in connection with the patient's health, including relevant health promotion advice; and
- (b) the referral of the patient for other services under the Act.

(6) A contractor must provide primary medical services required in core hours for the immediately necessary treatment of any person to whom the contractor has been requested to provide treatment owing to an accident or emergency at any place in its practice area.

(49) Section 17K was inserted by the 2004 Act, section 4.

(50) World Health Organisation, 1992 ISBN 92 4 1544 198 (v.1) NLM Classification WB 15.

(7) In paragraph (6), “emergency” includes any medical emergency whether or not related to services provided under the contract.

(8) A contractor must provide primary medical services required in core hours for the necessary treatment of any person falling within paragraph (9) who requests such treatment, for the period specified in paragraph (10).

(9) A person falls within this paragraph if he or she is a person—

- (a) whose application for inclusion in the contractor’s list of patients has been refused in accordance with paragraph 17 of Schedule 5 and who is not registered with another provider of essential services (or their equivalent) in the area of the Health Board;
- (b) whose application for acceptance as a temporary resident has been refused under paragraph 17 of Schedule 5; or
- (c) who is present in the contractor’s practice area for less than 24 hours.

(10) The period referred to in paragraph (8) is—

- (a) in the case of paragraph (9)(a) 14 days beginning with the date on which that person’s application was refused or until that person has been subsequently registered elsewhere for the provision of essential services (or their equivalent), whichever occurs first;
- (b) in the case of paragraph (9)(b), 14 days beginning with the date on which that person’s application was rejected or until that person has been subsequently accepted elsewhere as a temporary resident, whichever occurs first; and
- (c) in the case of paragraph (9)(c), 24 hours or such shorter period as the person is present in the contractor’s practice area.

Additional services

16. A contract which includes the provision of any additional services must—

- (a) in relation to all such services, contain a term which has the same effect as that specified in paragraph 1 of Schedule 1; and
- (b) in relation to each such service, contain terms which have the same effect as those specified in Schedule 1, which are relevant to that service.

Opt outs of additional and out of hours services

17.—(1) Where a contract provides for the contractor to provide an additional service that is to be funded through the global sum, the contract must contain terms relating to the procedure for opting out of additional services which have the same effect as those specified in paragraphs 1, 2, 3 and 6 of Schedule 2, except paragraphs 3(12) to (17).

(2) Where a contract which is entered into before 1st October 2004 provides for the contractor to provide out of hours services pursuant to regulation 30 or 31, the contract must contain terms relating to the procedure for opting out of those services which have the same effect as those specified in paragraphs 4, 5 and 6 of Schedule 2, except paragraphs 4(8) and 5(17) in so far as those paragraphs relate to paragraph 3(12) to (17).

(3) Where a contract which is entered into on or after 1st October 2004 provides for the contractor to provide out of hours services pursuant to regulation 30 or 31, the contract must contain terms relating to the procedure for opting out of those services which have the same effect as those specified in paragraphs 4 and 6 of Schedule 2, except paragraph 4(8) in so far as that paragraph relates to paragraph 3(12) to (17).

(4) Paragraphs 3(12) to (17) and paragraphs 4(8) and 5(17), in so far as those paragraphs relate to paragraph 3(12) to (17), of Schedule 2, shall have effect in relation to the matters set out in those paragraphs.

Services generally

18.—(1) A contract must specify—

- (a) the services to be provided;
- (b) subject to paragraph (2), the address of each of the premises to be used by the contractor or any sub-contractor for the provision of such services;
- (c) to whom such services are to be provided;
- (d) the area as respects which persons resident in it will, subject to any other terms of the contract relating to patient registration, be entitled to—
 - (i) register with the contractor, or
 - (ii) seek acceptance by the contractor as a temporary resident; and
- (e) whether, at the date on which the contract comes into force, the contractor’s list of patients is open or closed.

(2) The premises referred to in paragraph (1)(b) do not include—

- (a) the homes of patients; or
- (b) any other premises where services are provided on an emergency basis.

(3) Where, on the date on which the contract is signed, the Health Board is not satisfied that all or any of the premises specified in accordance with paragraph (1)(b) meet the requirements set out in paragraph 1 of Schedule 5, the contract must include a plan, drawn up jointly by the Health Board and the contractor, which specifies—

- (a) the steps to be taken by the contractor to bring the premises up to the relevant standard;
- (b) any financial support that may be available from the Health Board; and
- (c) the timescale on which the steps referred to in sub-paragraph (a) will be taken.

(4) Where, in accordance with paragraph (1)(e), the contract specifies that the contractor’s list of patients is closed, it must also specify in relation to that closure each of the items listed in paragraph 29(8)(a) to (d) of Schedule 5.

Services generally

19.—(1) Except in the case of the services referred to in paragraph (2), the contract must state the period (if any) for which the services are to be provided.

(2) The services referred to in paragraph (1) are—

- (a) essential services;
- (b) additional services funded under the global sum; and
- (c) out of hours services provided pursuant to regulations 30 and 31.

Services generally

20. A contract must contain a term which requires the contractor in core hours—

- (a) to provide—
 - (i) essential services, and
 - (ii) additional services funded under the global sum,

at such times, within core hours, as are appropriate to meet the reasonable needs of the contractor's patients; and

- (b) to have in place arrangements for the contractor's patients to access such services throughout the core hours in case of emergency.

Certificates

21.—(1) A contract must contain a term which has the effect of requiring the contractor to issue free of charge to a patient or a patient's personal representatives any medical certificate of a description prescribed in column 1 of Schedule 3, which is reasonably required under or for the purposes of the enactments specified in relation to the certificate in column 2 of that Schedule, except where, for the condition to which the certificate relates, the patient—

- (a) is being attended by a medical practitioner who is not—
- (i) employed or engaged by the contractor;
 - (ii) in the case of a contract with a partnership, one of the partners; or
 - (iii) in the case of a contract with a company limited by shares, one of the persons legally or beneficially owing the shares in that company; or
- (b) is not being treated by or under the supervision of a health care professional.

(2) The exception in paragraph (1)(a) shall not apply where the certificate is issued pursuant to regulation 2(1)(b) of the Social Security (Medical Evidence) Regulations 1976⁽⁵¹⁾ (which provides for the issue of a certificate in the form of a special statement by a doctor on the basis of a written report made by another doctor).

Finance

22.—(1) Subject to paragraph (2), the contract must contain a term which has the effect of requiring the Health Board to make payments to the contractor under the contract promptly and in accordance with both the terms of the contract and any other conditions relating to the payment contained in directions given by the Scottish Ministers under section 17M of the Act⁽⁵²⁾.

(2) The obligation referred to in paragraph (1) is subject to any right the Health Board may have to set off, against any amount payable to the contractor under the contract, any amount—

- (a) that is owed by the contractor to the Health Board under the contract; or
- (b) that the Health Board may withhold from the contractor in accordance with the terms of the contract or any other applicable provisions contained in directions given by the Scottish Ministers under section 17M of the Act.

Finance

23. The contract must contain a term to the effect that where, pursuant to any directions of the Scottish Ministers under section 17M of the Act, a Health Board is required to make a payment to a contractor under a contract but subject to conditions, those conditions are to be a term of the contract.

Fees and charges

24.—(1) The contract must contain terms relating to fees and charges which have the same effect as those set out in paragraphs (2) to (4).

⁽⁵¹⁾ S.I. 1976/615. Regulation 2 was amended by S.I. 1982/699, 1992/247, 1994/2975, 1995/987 and 2000/590.

⁽⁵²⁾ Section 17M was inserted into the Act by section 4 of the 2004 Act.

(2) The contractor shall not, either itself or through any other person, demand or accept from any of its patients a fee or other remuneration, for the benefit of the contractor or another person, for—

- (a) the provision of any treatment whether under the contract or otherwise; or
- (b) any prescription for any drug, medicine or appliance,

except in the circumstances set out in Schedule 4.

(3) Where a person applies to a contractor for the provision of essential services and claims to be on that contractor's list of patients, but fails to produce that person's medical card on request and the contractor has reasonable doubts about that person's claim, the contractor shall give any necessary treatment and shall be entitled to demand and accept a reasonable fee in accordance with paragraph (e) of Schedule 4, subject to the provision for repayment contained in paragraph (4).

(4) Where a person from whom a contractor received a fee under paragraph (e) of Schedule 4 applies to the Health Board for a refund within 14 days of payment of the fee (or such longer period not exceeding one month as the Health Board may allow, if it is satisfied that the failure to apply within 14 days was reasonable) and the Health Board is satisfied that the person was on the contractor's list of patients when the treatment was given, the Health Board may recover the amount of the fee from the contractor, by deduction from the contractor's remuneration or otherwise, and shall pay that amount to the person who paid the fee.

Arrangements on termination

25. A contract shall make suitable provision for arrangements on termination of a contract, including the consequences (whether financial or otherwise) of the contract ending.

Other contractual terms

26.—(1) A contract must, unless it is of a type or nature to which a particular provision does not apply, contain other terms which have, the same effect as those specified in Schedule 5, except paragraphs 31(5) to (7), 35(5) to (9), 36 (3), 91(5) to (15) and 92.

(2) The paragraphs specified in paragraph (1) shall have effect in relation to the matters set out in those paragraphs.

PART 6

Functions of Area Medical Committee

Functions of area medical committee

27.—(1) The functions of an area medical committee which are prescribed for the purposes of section 9(6) of the Act (local consultative committees) are—

- (a) the functions which are conferred upon it by these Regulations or by any order made under section 7 of the 2004 Act;
- (b) the making of arrangements for the medical examination of a medical practitioner specified in paragraph (2), where the contractor or the Health Board is concerned that the medical practitioner is incapable of adequately providing services under the contract and it so requests with the agreement of the medical practitioner concerned; and
- (c) the consideration of the report of any medical examination arranged in accordance with sub-paragraph (b) and the making of a written report as to the capability of the medical practitioner of adequately providing services under the contract to the medical practitioner concerned, the contractor and the Health Board with whom the contractor holds a contract.

- (2) The medical practitioner referred to in paragraph (1)(b) is a medical practitioner who is—
- (a) a contractor;
 - (b) where the contractor is a partnership, any partner in the partnership; or
 - (c) where the contractor is a company, any legal and beneficial shareholder in that company.

PART 7

Transitional Provisions

Commencement

28. A contract shall provide for services to be provided under it from any date on or after 1st April 2004.

Additional services

29.—(1) Where the contract is with one of the persons specified in paragraph (2), the contract must, subject to regulation 17, provide for the contractor to provide in core hours to the contractor's registered patients and persons accepted by the contractor as temporary residents, such of the additional services as are equivalent to services which that medical practitioner or practitioners was or were providing to that practitioner's or those practitioners' patients on the date that the contract is entered into except to the extent that—

- (a) the provision of any of those services by that medical practitioner or practitioners is due to come to an end on or before the date on which the services are required to start being provided under the contract; and
 - (b) prior to the signing of the contract, the Health Board has accepted in writing a written request from the contractor that the contract should not require the contractor to provide all or any of those additional services.
- (2) The persons referred to in paragraph (1) are—
- (a) an individual medical practitioner who, on 31st March 2004, was providing services under section 19 of the Act (arrangements and regulations for general medical services);
 - (b) a partnership at least one partner of which was, on 31st March 2004, a medical practitioner providing services under that section; or
 - (c) a company in which one or more of the shareholders was, on 31st March 2004, a medical practitioner providing services under that section.

(3) This regulation applies only to contracts under which services are to be provided from 1st April 2004.

Out of hours services

30.—(1) Subject to paragraph 10 of Schedule 5, a contract under which services are to be provided before 1st January 2005 (whether or not such services will be provided after that date) must provide for the services specified in paragraph (2) to be provided throughout the out of hours period unless—

- (a) the Health Board has accepted in writing, prior to the signing of the contract, a written request from the contractor that the contract should not require the contractor to make such provision; or
- (b) the contract is, at the date on which it is signed, with—

- (i) a medical practitioner who is, or was on 31st March 2004, relieved of responsibility for providing services to the practitioner's patients under paragraph 17(2) of Schedule 1 to the National Health Service (General Medical Services) (Scotland) Regulations 1995⁽⁵³⁾;
 - (ii) a partnership in which all of the partners who are general medical practitioners are, or were on 31st March 2004, relieved of responsibility for providing services to their patients under that paragraph; or
 - (iii) a company in which all of the general medical practitioners who own shares in that company are, or were on 31st March 2004, relieved of responsibility for providing services to their patients under that paragraph;
 - (c) the contractor has opted out in accordance with paragraph 4 or 5 of Schedule 2; or
 - (d) the contract has been otherwise varied to exclude a requirement to make such provision.
- (2) The services referred to in paragraph (1) are—
- (a) the services which must be provided in core hours under regulation 15; and
 - (b) such additional services as are included in the contract pursuant to regulation 29.

Out of hours services

- 31.**—(1) Where the contract is with—
- (a) a medical practitioner who is, or was on 31st March 2004, responsible for providing services during all or part of the out of hours period to the patients of a medical practitioner who meets the requirements in paragraph (2);
 - (b) a partnership, at least one member of which is, or was on 31st March 2004, a medical practitioner responsible for providing such services; or
 - (c) a company in which one or more of the shareholders is, or was on 31st March 2004, a medical practitioner responsible for providing such services,
- the contract with that contractor must require the contractor to continue to provide such services to the patients of the exempt contractor until the happening of one of the events in paragraph (3).
- (2) The requirements referred to in paragraph (1)(a) are that—
- (a) the medical practitioner was relieved of responsibility for providing services to the practitioner's patients under paragraph 17(2) of Schedule 1 to the National Health Service (General Medical Services) (Scotland) Regulations 1995; and
 - (b) the medical practitioner—
 - (i) has entered or intends to enter into a contract which does not include out of hours services pursuant to regulation 30(1)(b)(i);
 - (ii) is one of the partners in the partnership which has entered or intends to enter into a contract which does not include out of hours services pursuant to regulation 30(1)(b)(ii); or
 - (iii) is the owner of shares in a company which has entered or intends to enter into a contract which does not include out of hours services pursuant to regulation 30(1)(b)(iii).
- (3) The events referred to in paragraph (1) are—
- (a) the contractor has opted out of the provision of out of hours services in accordance with paragraph 4 or 5 of Schedule 2; or

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(b) the Health Board (and, if it is different, the Health Board with whom the exempt contractor holds a contract) has or have agreed in writing that the contractor need no longer provide some or all of those services to some or all of those patients.

(4) In this regulation “exempt contractor” means a contractor who is relieved of responsibility for providing out of hours services pursuant to regulation 30(1)(b).

Out of hours services

32. A contract which includes the provision of out of hours services pursuant to regulation 30 or 31 must contain terms which have the same effect as those set out in Schedule 6.

St Andrew’s House, Edinburgh
10th March 2004

Malcolm Chisholm
A member of the Scottish Executive