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## EXPLANATORY NOTE

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

This Order is made under section 7 (ancillary provisions) of the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#) (“the 2004 Act”).

The Order generally sets out transitional arrangements to cover the replacement of arrangements for general medical services under section 19 of the National Health Service (Scotland) Act 1978 (c. 29) (“the 1978 Act”) with general medical services contracts (“GMS contracts”) under section 17J of that Act (as inserted by section 4 of the 2004 Act). It also contains other ancillary provisions relating to this.

Part 2 of the Order sets out the circumstances in which those providing general medical services under section 19 of the 1978 Act on 31st March 2004 will be entitled, on and after 1st April 2004, to enter into a GMS contract with a Health Board (articles 3 and 4). If they do not enter into such a contract on 1st April 2004, they will, in general, only continue to be so entitled if they enter into a default contract with the Board and if the GMS contract is signed on or before 30th September 2004 (article 6).

Part 3 of the Order makes provision as to the circumstances in which a Health Board must enter into a default contract with a practitioner or a partnership and the duration of such a contract (articles 13 and 14).

Both Parts 2 and 3 set out the arrangements for medical practitioners who are suspended, unable to provide services under a contract on grounds of physical or mental ill-health or performing relevant service in the armed forces. They also provide a right of appeal to the Scottish Ministers where a Health Board refuses to enter into a GMS or a default contract because it is not satisfied that the criteria relating to suspended or unfit medical practitioners are met or where the Health Board has failed to enter into a GMS contract by the time a person’s entitlement to such a contract expires (articles 5, 11 and 13).

Part 4 provides for the continuation of arrangements by the Health Board to provide primary medical services to the patients of medical practitioners who are suspended or unable to perform services on the grounds of physical or mental ill-health (article 15).

Part 5 specifies certain terms for default contracts and certain types of GMS contracts. Articles 16 to 25 specify the services which must be provided in default contracts and certain types of GMS contracts. Articles 26 and 27 prescribe the premises which must be specified in default and GMS contracts and the practice area which must be specified in default contracts. Articles 28 to 32 specify who must be included in the list of patients for default contracts and certain types of GMS contracts and whether that list must be open or closed to applications from patients. Article 33 deals with the procedure for dispute resolution in default contracts. Article 34 provides for certain types of GMS contracts to be capable of termination on the basis of a dismissal from employment which occurred between 1st April 2004 and the commencement of the GMS contract.

Part 6 sets out the financial arrangements for default contracts, for GMS contracts which follow default contracts and for persons unable to enter into default contracts.