

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2004 No. 163**

**The General Medical Services and Section  
17C Agreements (Transitional and other  
Ancillary Provisions) (Scotland) Order 2004**

**PART 2**

**TRANSITIONAL PROVISIONS RELATING  
TO GENERAL MEDICAL SERVICES**

**Investigation of outstanding complaints**

**21.—**(1) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 12A of Schedule 1 to the 1995 Regulations<sup>(1)</sup> by or on behalf of a patient or former patient of a relevant medical practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 12A, had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 12A had not been revoked.

(2) Where, on 31st March 2004—

- (a) a complaint had been made under paragraph 12A of Schedule 1 to the 1995 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 12A, had not concluded,

that complaint must be investigated by a person specified in paragraph (3) as if paragraph 12A had not been revoked.

(3) The person referred to in paragraph (2) is—

- (a) any person who was the former partner of the medical practitioner on whose list of patients the complainant was included, if that person meets the requirements in paragraph (4);
- (b) if the person specified in paragraph (a) satisfies the Health Board on whose medical list the former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by that person, that Health Board; or
- (c) in any other case, the Health Board on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.

(4) The requirements referred to in paragraph (3) are that the former partner—

---

(1) Paragraph 12A of Schedule 1 was added by [S.I. 1996/842](#) and amended by [S.I. 1999/749](#).

- (a) has entered into a default contract or a general medical services contract as an individual medical practitioner with the Health Board on whose medical list the former partner was included for the purposes of providing general medical services to the complainant;
  - (b) is a partner in a partnership which has entered into a default contract or a general medical services contract with that Health Board; or
  - (c) is a legal and beneficial shareholder in a company which has entered into a general medical services contract with that Health Board.
- (5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall—
- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
  - (b) if they are unable to reach agreement, refer the matter to the Health Board on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Health Board shall investigate the complaint itself.
- (6) Where, under this article, a complaint falls to be investigated by a Health Board the investigation shall be carried out in accordance with the directions on dealing with complaints about family health services practitioners given by the Secretary of State under section 2(5) of the 1978 Act on 26th March 1996(2).