
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

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

PART 6

**TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS
RELATING TO OUT OF HOURS ARRANGEMENTS AND SERVICES**

**Appeal against immediate withdrawal of approval of out of hours arrangements under
general medical services contracts and default contracts**

70. Where—

- (a) on or before 31st March 2004, a Health Board had notified a medical practitioner of its immediate withdrawal of approval of an out of hours arrangement under paragraph 17C of Schedule 1 to the 1995 Regulations; and
- (b) on or before 1st April 2004, that medical practitioner—
 - (i) has entered as an individual medical practitioner into a general medical services contract, or a default contract, which requires the provision of out of hours services;
 - (ii) is a partner in a partnership which has entered into such a contract; or
 - (iii) is a legal and beneficial shareholder in a company which has entered into such a general medical services contract,

paragraphs (2) and (3) shall apply.

(2) In a case where the time for appealing under paragraph 17C(4) had not expired on or before 31st March 2004, that withdrawal shall be treated as if it were a withdrawal of approval under the term of the general medical services contract which gives effect to paragraph 5(1)(c) of Schedule 6 to the 2004 Regulations (or under the equivalent term of a default contract) subject to the modification that the 30 days referred to in the term giving effect to paragraph 5(5) of that Schedule (or in the equivalent term of the default contract) shall be treated as beginning with the day on which the Health Board's notification under paragraph 17C(2) of Schedule 1 to the 1995 Regulations was sent.

(3) In a case where, on 31st March 2004, an appeal had already been made under paragraph 17C(4) but not yet been determined or withdrawn, that appeal shall, except in the circumstances specified in paragraph (4), continue to be dealt with as if paragraphs 17A and 17C of Schedule 1 to the 1995 Regulations had not been revoked and, if the appeal is successful, the approval of the arrangement shall be treated as an approval given under the term of the general medical services contract which gives effect to paragraph 2 of Schedule 1 to the 2004 Regulations (or under the equivalent term of the default contract).

(4) The circumstances referred to in paragraph (3) are that the appeal related to an arrangement with a transferee doctor as defined in paragraph 17A(1)(c) of Schedule 1 to the 1995 Regulations and that doctor—

- (a) has not entered as an individual medical practitioner into a general medical services contract, or a default contract, which includes the provision of out of hours services;
 - (b) is not a partner in partnership which has entered into such a contract;
 - (c) is not a legal and beneficial shareholder in a company which has entered into such a general medical services contract; or
 - (d) is not a party or a partner in a partnership which is a party, to contractual arrangements under article 15 of the Transitional Order which include the provision of out of hours services.
- (5) The terms of an approval granted pursuant to paragraphs (2) or (3) shall be the same as those of the approval previously granted approval under paragraph 17A of Schedule 1 to the 1995 Regulations except that—
- (a) any references to the patients of the medical practitioner shall be amended to be references to the patients of the general medical services contractor or the default contractor;
 - (b) any references to the whole of the out of hours period shall be amended to be references to—
 - (i) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day;
 - (ii) the period between 6.30pm on Friday and 8am the following Monday; and
 - (iii) Christmas Day, New Year’s Day and any other public or local holiday;
 - (c) in any reference to part of the out of hours period—
 - (i) any reference to 7pm on Monday to Friday shall be amended to be a reference to 6.30pm; and
 - (ii) any reference to 1pm on Saturday shall be amended to be a reference to 6.30pm on Friday; and
 - (d) any references to a particular transferee doctor shall be amended to be references to—
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under article 15 of the Transitional Order;
 - (ii) the partnership in which that person is a partner and which has entered in to a general medical services contract or a default contract or which is party to contractual arrangements made under article 15 of the Transitional Order; or
 - (iii) the company in which that person is a legal and beneficial shareholder and which has entered into a general medical services contract.