
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

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

PART 7

**TRANSITIONAL ARRANGEMENTS: THE NATIONAL
HEALTH SERVICE (SERVICE COMMITTEES AND
TRIBUNAL) (SCOTLAND) REGULATIONS 1992**

**Determination whether a substance is a drug and recovery of cost (regulation 19 of the
Service Committees Regulations)**

84.—(1) Where a question has arisen as to whether a substance supplied by a doctor, or by a pharmacist on the prescription of a doctor, was a drug for the purposes of pharmaceutical services within the meaning of regulation 19(1)(1), and that question has arisen before the relevant date, or on or after the relevant date in respect of any substance supplied by a doctor, or by a pharmacist on the prescription of a doctor before the relevant date, and—

- (a) that question has not been referred for consideration by the area medical committee; or
- (b) that question has been referred to the area medical committee and the area medical committee has not yet finally determined the matter pursuant to regulation 19,

the question may, in a case falling within sub-paragraph (a) be referred, or notified to the doctor and referred (as the case may be), and, in relation to both sub-paragraphs, the area medical committee shall consider or continue to consider (as the case may be) and determine the matter in accordance with regulation 19, subject to the provisions in this article, as if section 19 of the 1978 Act had not been repealed.

(2) Where an area medical committee makes a determination pursuant to paragraph (1), regulation 19(8) shall apply.

(3) Where a doctor has notified the Scottish Ministers pursuant to regulation 19(8) that the doctor is dissatisfied with a determination—

- (a) made before the relevant date, and the referral has not been determined before the relevant date; or
- (b) on or after the relevant date,

that referral shall be determined in accordance with regulation 19 as if section 19 of the 1978 Act had not been repealed.

(4) Where a Health Board has notified the Scottish Ministers pursuant to regulation 19(8) that the Health Board is dissatisfied with a determination—

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- (a) made before the relevant date, and the referral has not been determined before the relevant date; or
- (b) on or after the relevant date,

that referral shall be determined in accordance with regulation 19 as if section 19 of the 1978 Act had not been repealed.

(5) Where the Scottish Ministers are dissatisfied with a determination pursuant to regulation 19(8) and—

- (a) have referred the question for determination before the relevant date pursuant to regulation 19(8), and that referral has not been determined before the relevant date; or
- (b) refer the question for determination on or after the relevant date,

that referral shall be determined in accordance with regulation 19 as if section 19 of the 1978 Act had not been repealed.