

2004 No. 41

NATIONAL HEALTH SERVICE

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

Made - - - - - *2nd February 2004*

Laid before the Scottish Parliament *3rd February 2004*

Coming into force *4th March 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 19, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Medical Services) (Scotland) Amendment Regulations 2004 and shall come into force on 4th March 2004.

Amendment of the National Health Service (General Medical Services) (Scotland) Regulations 1995

2.—(1) The National Health Service (General Medical Services) (Scotland) Regulations 1995(b) are amended as follows.

(2) In regulation 4(1) (medical list) after “doctors” insert “, subject to the provisions of regulation 26(1) (practitioners subject to inquiry in a fraud case) of the National Health Service (Tribunal) (Scotland) Regulations 2004(c)”.

(3) In regulation 5(6) (amendment of or withdrawal from the medical list)—

(a) for “(disqualification of practitioners) that his continued inclusion in the medical list would be prejudicial to the efficient provision of general medical services” substitute “(the NHS Tribunal), or a request for a review has been made to the Tribunal or a review

(a) 1978 c.29. Section 19 was amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), section 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (“the 1983 Act”), Schedule 7, paragraph 2, by the Medical Act 1983 (c.54), Schedule 5, paragraph 17(a), by the National Health Service and Community Care Act 1990 (c.19), section 37, by the Medical (Professional Performance) Act 1995 (c.51), Schedule, paragraph 29(a), and by the National Health Service (Primary Care) Act 1997 (c.46), section 41(10), Schedule 2, Part I, paragraph 39 and Schedule 3, Part I and was extended by the Health and Medicines Act 1988 (c.49), section 17; section 105(7), which contains provisions relevant to the making of Regulations, was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7, by the 1983 Act, Schedule 9, Part I, paragraph 24 and by the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1995/416. Relevant amending instruments are S.I. 1995/3199, 1996/842, 1997/943, 1998/660, 2002/3135 and S.S.I. 2003/64.

(c) S.S.I. 2004/38.

is to be made by the Tribunal under section 30 of the Act (review etc. of disqualification)(a)”; and

(b) after “representations” in the second place where it occurs insert “, request for review or review”.

(4) In Schedule 1 (terms of service)–

(a) in paragraph 17A (out of hours arrangements)(b) for sub-paragraph (7)(h)(i) substitute–

“(i) he has been notified under regulation 9(1) (notices to be sent to respondent and any other Health Board or primary care NHS trust in case of an inquiry) or 24(4) (procedure in regard to application to the Tribunal for a review) of the National Health Service (Tribunal) (Scotland) Regulations 2004 that the Tribunal intends to hold an inquiry as to representations or an application made in relation to him;”;

(b) in paragraph 18(12)–

(i) after “list” insert “and supplementary list”; and

(ii) for “29” substitute “29B(c) or 30”;

(c) in paragraph 19(2)(a)(i)(d) for “29(3)(c)” substitute “29B(3) or 30(6)”;

(d) in paragraph 20A(a)(e)–

(i) for “29(3)(b)” substitute “29B(2) or 30(2) or (5)”;

(ii) after “list” insert “and supplementary list”; and

(iii) for “29(3)(c)” substitute “29B(3) or 30(6)”.

MALCOLM CHISHOLM

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
2nd February 2004

(a) Section 30 was substituted by the Health Act 1999 (c.8), section 58(2) and amended by the Community Care and Health (Scotland) Act 2002 asp 5; schedule 2, paragraph 2(7).

(b) Paragraph 17A was inserted by S.I. 1996/842, and amended by S.I. 1998/660 and 2002/3135.

(c) Section 29B was inserted 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(6).

(d) Paragraph 19 was substituted by S.I. 1997/943 and amended by S.I. 1998/660 and S.S.I. 2003/64.

(e) Paragraph 20A was inserted by S.I. 1998/660.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services) (Scotland) Regulations 1995 (“the 1995 Regulations”), which make arrangements under which doctors provide general medical services under the National Health Service (Scotland) Act 1978 (c.29) (“the Act”).

These Regulations make amendments to regulations 4 (medical list) and 5 (amendment of or withdrawal from the medical list) of, and paragraphs 17A, 18, 19 and 20A of Schedule 1 (terms of service) to, the 1995 Regulations. These amendments are consequential upon the National Health Service (Tribunal) (Scotland) Regulations 2004 (“the 2004 Regulations”), and amendments made to the Act by the Health Act 1999 (c.8) (“the 1999 Act”) and the Community Care and Health (Scotland) Act 2002 asp 5 (“the 2002 Act”), relating to the NHS Tribunal and the disqualification of practitioners providing services under Part II of the Act.

In particular these Regulations—

- (a) clarify that the medical list prepared by Health Board or primary care NHS trust, shall not include practitioners who, by virtue of the provisions of regulation 26 (which deals with practitioners subject to an inquiry in a fraud case) of the 2004 Regulations, may not be added to the list until the proceedings in that case are finally concluded;
- (b) amend references to provisions of the Act to be references to provisions of the Act as amended by the 1999 Act; and
- (c) amend references to medical lists to include references to supplementary lists, which medical practitioners may be disqualified from inclusion on, consequent to the 2002 Act.

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