

EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (TRIBUNAL) (SCOTLAND) AMENDMENT (NO. 2) REGULATIONS 2010 (SSI 2010/266)

The above instrument was made in exercise of the powers conferred by sections 29(4), 32, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978. The instrument is subject to negative resolution procedure.

Background

The NHS Tribunal inquires into representations about persons included or applying to be included on dental, ophthalmic, pharmaceutical or primary medical services performers lists held by NHS Boards. The sanctions available to the Tribunal are conditional or unconditional national disqualification from these lists.

Policy Objectives

The Parliament brought to the Scottish Government's attention an error in the National Health Service (Tribunal) (Scotland) Amendment Regulations 2010 (S.S.I 2010/227) ("the 2010 Amendment Regulations") which were laid on 10 June 2010 and are due to come into force on 2 July 2010. The 2010 Amendment Regulations made amendments to provide for an increase in the number of copies of documents (from 2 to 5) that need to be submitted to the Tribunal in the course of its deliberations. The 2010 Amendment Regulations did not, however, make the corresponding changes to the text of the forms used by the Tribunal when carrying out its activities; leading to a discrepancy between the legal obligations contained in the National Health Service (Tribunal) (Scotland) Regulations 2004 ("the principal Regulations") and the text of forms 1, 2, 3, and 5 at Schedule 2 to these.

It is not thought that this error would have legal effect upon the interpretation of the principal Regulations as a whole. However, in order to set out the policy/put the workings and procedures of the NHS Tribunal beyond doubt and to save confusion on the part of those making use of the forms, the instrument makes the appropriate amendments to the principal Regulations. This instrument is due to come into force on 2 July 2010, meaning that, at no point, will the discrepancy detailed above be set out in law.

Consultation

A copy of the draft Regulations was sent to the statutory consultee, the Scottish Committee of the Administrative Justice and Tribunals Council. The professional representative bodies, who agreed the policy, have been informed.

Financial Effects

There will be minimal financial effects on NHS Boards and practitioners.

SCOTTISH GOVERNMENT HEALTH DIRECTORATES
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