
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 (“the principal Regulations”), which set out the framework for arrangements under section 17C of the National Health Service (Scotland) Act 1978 (“the Act”). The amendments are necessary following the commencement of Part 2 of the Tobacco and Primary Medical Services (Scotland) Act 2010 which makes provision for the new eligibility criteria for persons contracting with Health Boards to provide primary medical services.

Regulation 3 amends regulation 2 of the principal Regulations by amending the definition of “disqualified”, inserting a definition of “conditional disqualification” and omitting the definitions of “local or national disqualification” and “national disqualification”.

Regulation 4 amends regulation 3 of the principal Regulations to take into account the new eligibility criteria.

Regulation 5 inserts regulation 3A to the principal Regulations, to make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of primary medical services (“the involvement criteria”). Regulation 3A provides that the involvement criteria require that a person performs or is engaged, or will perform or be engaged, in the provision of primary medical services for no less than a total of 10 hours in each week for the duration of the agreement. Regulation 3A also sets out the periods of time which are to be disregarded for the purposes of determining whether a person fulfils the involvement criteria.

Regulation 6 amends regulation 4 of the principal Regulations to take account of the new eligibility criteria.

Regulations 7, 8, 9, 10(2) and (3) make technical amendments to regulations 19, 23 and 24 and paragraphs 9 and 28 of Schedule 1 of the principal Regulations in order to take account of the new eligibility criteria.

Regulation 10(4) amends paragraph 32 of Schedule 1 regarding the sub-contracting of clinical matters in order to provide that where a provider sub-contracts any of its rights or duties under the agreement, the required notification to the Health Board must include a statement as to whether the sub-contractor, if it were a provider, would have sufficient involvement in patient care in terms of section 17CA(3) and (4) of the Act. The amendment also provides that a Health Board may serve a notice of objection to a sub-contract on the grounds that the sub-contractor, if it were a provider, would not have sufficient involvement in patient care in terms of section 17CA(3) and (4) of the Act.

Regulation 10(5) amends paragraph 39 of Schedule 1 to provide that the provider shall include in the annual return a statement that the provider meets the conditions of section 17CA(3) and (4) of the Act.

Regulation 10(6) amends the cross-references in paragraph 40 of Schedule 1.

Regulation 10(7) amends paragraph 42 of Schedule 1 so that it only applies to agreements entered into prior to 22nd December 2010.

Regulation 10(8) inserts a new paragraph 42A of Schedule 1 to provide for new notice provisions specific to an agreement with a company which was entered into after 22nd December 2010 and which take into account the new eligibility criteria.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Regulation 10(9) amends paragraph 43 of Schedule 1 to make a distinction between the notice provision requirements which apply to agreements with partnerships entered into prior to 22nd December 2010 and those entered into on or after that date.

Regulation 10(10) inserts a new paragraph 43A of Schedule 1 to make provision for notice provision requirements specific to agreements with persons practising in a limited liability partnership.

Regulation 10(11), (12), (13), (14), (15) and (16) amend the termination provisions of Schedule 1 of the principal Regulations in order to make a distinction between the application of those provisions to those agreements entered into prior to and those entered into on or after the coming into force of the regulations.

Regulations 10(17), (18) and (19), 11(1), (2) and (3) and 12 make further amendments to Schedules 1, 2 and 6 to take into account the new eligibility criteria and to amend cross-references.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Health Directorate, St Andrew's House, Regent Road, Edinburgh, EH1 3DG, and online at www.legislation.gov.uk.