
STATUTORY INSTRUMENTS

1995 No. 3199 (S.237)

NATIONAL HEALTH SERVICE, SCOTLAND

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

<i>Made</i>	- - - -	<i>7th December 1995</i>
<i>Laid before Parliament</i>		<i>11th December 1995</i>
<i>Coming into force</i>	- -	<i>1st January 1996</i>

The Secretary of State, in exercise of the powers conferred on him by sections 2(5), 19, 32E and 105(7) of the National Health Service (Scotland) Act 1978⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services) (Scotland) Amendment Regulations 1995 and shall come into force on 1st January 1996.

(2) In these Regulations, “the principal Regulations” means the National Health Service (General Medical Services) (Scotland) Regulations 1995⁽²⁾.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation)—

(a) after the definition of “scheduled drug” insert—

““suspended by direction of the Tribunal” means suspended as respects the provision of general medical services to patients by a direction of the Tribunal made pursuant to section 32A(2) or section 32B(1) of the Act⁽³⁾ or to any provisions in England and Wales or Northern Ireland corresponding to those provisions;” and

(b) after the definition of “treatment” insert—

(1) 1978 c. 29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(1); 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) and by the 1990 Act, section 37 and is to be read with the Health and Medicines Act 1988 (c. 49), section 17; section 32E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 8; section 105(7) was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9, paragraph 24; see section 108(1) for the definitions of “prescribed” and “regulations”.

(2) S.I. 1995/416.

(3) Sections 32A and 32B were inserted by section 8 of the National Health Service (Amendment) Act 1995 (c. 31).

““the Tribunal” means the Tribunal constituted under section 29 of the Act.”(4).

Amendment of regulation 7 of the principal Regulations

3.—(1) Regulation 7 of the principal Regulations (removal from medical list of names of doctors not providing services) is amended as follows.

(2) In paragraph (1) at the beginning insert “subject to paragraph (1A)” and after the words “30 days' notice” insert “in writing”.

(3) After paragraph (1) insert—

“(1A) In calculating the period of 6 months referred to in paragraph (1) the Board shall disregard any period during which the doctor was suspended by direction of the Tribunal.”.

(4) In paragraph (2) after the words “30 days' notice” insert “in writing”.

Amendment of regulation 24 of the principal Regulations

4.—(1) Regulation 24 of the principal Regulations (temporary provision of general medical services) is amended as follows.

(2) At the end of paragraph (2), insert “and where a doctor is suspended by direction of the Tribunal, the Board shall, after consultation with the Area Medical Committee, make arrangements for the temporary provision of general medical services for the suspended doctor’s patients with one or more doctors on the medical list of the Board (one or more of whom may be partners of the suspended doctor) or with one or more doctors appointed for the purpose, or both”.

(3) In paragraph (17), at the beginning insert “Where paragraph (17A) does not apply,”.

(4) After paragraph (17) insert—

“(17A) In the case of a doctor who has been suspended by direction of the Tribunal—

(a) the Board shall temporarily assign each of the suspended doctor’s patients to the list of one of the doctors with whom arrangements for the temporary provision of general medical services are made for the duration of those arrangements; and

(b) to the extent necessary to accommodate any additional patients temporarily assigned under sub-paragraph (a), the limitations contained in regulation 21 on the number of persons who may be on a doctor’s list shall not apply for the duration of those arrangements.

(17B) Where arrangements such as are referred to in paragraph (17A) are in force when a suspension by direction of the Tribunal ceases to have effect—

(a) in the case where the suspended doctor continues to be included in the medical list, the Board shall reassign to him all those patients temporarily assigned under paragraph (17A) who are still on the list of the doctor to whom they were so assigned; and

(b) in the case where he ceases to be included in the medical list the arrangements referred to in paragraph (17A) shall cease to have effect (without prejudice to any new arrangements which may be made under this regulation).”.

Amendment of regulation 35 of the principal Regulations

5. After regulation 35 of the principal Regulations (payments), insert the following new regulation:—

(4) Section 29 was amended by the Health and Social Security Act 1984 (c. 48), section 24 and Schedule 8, Part I and by the National Health Service (Amendment) Act 1995 (c. 31), sections 7 and 9 and the Schedule.

“Payments to suspended doctors

35A.—(1) The Board shall make payments to any doctor who is suspended by direction of the Tribunal in accordance with the Secretary of State’s determination in relation to such payments.

(2) The Secretary of State’s determination shall be made in accordance with paragraph (4) after consultation with the organisations referred to in regulation 35(1) and it shall be published with the Statement referred to in regulation 35(1).

(3) The determination may be amended from time to time by the Secretary of State after consultation with the organisations referred to in regulation 35(1) and any such amended determination shall also be published with the Statement referred to in regulation 35(1).

(4) Subject to paragraphs (5) and (6) the Secretary of State’s determination shall be such as to secure that, as far as reasonably practicable, the suspended doctor receives all the payments which would have been due to him pursuant to regulation 35 had he provided such general medical services to his patients during the period of his suspension as are actually provided by the doctor who becomes responsible for them during that period by virtue of regulation 24(2)(a).

(5) To the extent that such payments consist of the reimbursement of expenses for which the doctor must submit a claim the suspended doctor shall receive reimbursement only in respect of those expenses which he continues to incur during the period of his suspension.

(6) In a case to which section 32B(3) of the Act applies, the determination shall take account of any payments which the suspended doctor receives for providing general medical services as an associate, assistant or deputy.”

Amendment of Schedule to the principal Regulations

6. In Schedule 1 to the principal Regulations (terms of service for doctors)—

(a) in paragraph 19 (which provides that a doctor must obtain the consent of the Board before entering into arrangements with a deputising service), in sub-paragraph (1)(a), after “provided to him by the deputising service” insert—

“(i) will not be subject to a declaration either under section 29(3)(c) of the Act or under any corresponding provision in force in England and Wales or Northern Ireland that he is not fit to be engaged in any capacity in the provision of general medical services, and will not be suspended by direction of the Tribunal other than in a case falling within section 32B(3) of the Act, and

(ii)”;
and

(b) after paragraph 20(1) insert the following:—

“(1A) A doctor shall not engage as a deputy or employ as an associate or assistant any doctor—

(a) who, having been disqualified under section 29(3)(b) of the Act (or under any corresponding provision in force in England and Wales or Northern Ireland) from inclusion in the medical list of a Board (or in England and Wales of an FHSA or in Northern Ireland of a Health and Social Services Board) is also the subject of a declaration under section 29(3)(c) of the Act (or under any corresponding provision in force in England and Wales or Northern Ireland) that he is not fit to be engaged in any capacity in the provision of general medical services; or

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- (b) who is suspended by direction of the Tribunal other than in a case falling within section 32B(3) of the Act.”.

Amendment of Schedule 10 to the principal Regulations

7. In Schedule 10 to the principal Regulations (drugs and other substances not to be supplied by general medical practitioners or prescribed for supply under pharmaceutical services), after the entry “Temazepam Planpak” there shall be inserted the entry “Temazepam Soft Gelatin Gel-Filled Capsules”.

St Andrew’s House,
Edinburgh
7th December 1995

James Douglas-Hamilton
Minister of State, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services) (Scotland) Regulations 1995 (“the principal Regulations”), which regulate the terms on which general medical services are provided under the National Health Service (Scotland) Act 1978.

These Regulations make provision for the care of patients where a general medical practitioner is suspended from the provision of general medical services by the NHS Tribunal in any part of the United Kingdom either pending its investigation or pending an appeal from its decision; and for the case where a general medical practitioner who is disqualified by the Tribunal from providing general medical services is also declared to be unfit to provide general medical services in any capacity.

Regulation 3 provides that in assessing whether a doctor has failed to provide general medical services for a period of 6 months a Health Board shall disregard any period when that doctor was suspended by direction of the NHS Tribunal.

Regulation 4 requires a Board to make temporary arrangements for the provision of general medical services to a suspended doctor’s patients with one or more doctors and provides that the patients are to be temporarily transferred to the lists of such other doctors and transferred back again if the suspended doctor is reinstated.

Regulation 5 provides for payments to be made to a suspended doctor.

Regulation 6 amends the doctors' terms of service to prevent a doctor engaging as a deputy or employing as an associate or an assistant either a suspended doctor or a doctor who has been disqualified and who is subject to a declaration by the NHS Tribunal that he is not fit to be engaged in any capacity in the provision of general medical services.

Regulation 7 includes “Temazepam Soft Gelatin Gel-Filled Capsules” in the list in Schedule 10 to the principal Regulations, which lists drugs and other substances which may not be supplied by general medical practitioners or prescribed for supply in the course of pharmaceutical services under the National Health Service (Scotland) Act 1978.