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STATUTORY INSTRUMENTS

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**1998 No. 657 (S. 27)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1998**

<i>Made</i>	- - - -	<i>9th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 19(2), 32, 105(7) and 106(a) of the National Health Service (Scotland) Act 1978(1) and sections 39(1) and 40(2) of, and paragraph 3(4) and (5) of Schedule 1 to, the National Health Service (Primary Care) Act 1997(2) and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals and its Scottish Committee in accordance with section 8 of the Tribunal and Inquiries Act 1992(3), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(4).

**Interpretation and forms**

2. In regulation 21 of the principal Regulations (interpretation and forms), in paragraph (1)–

(a) there shall be inserted the following definitions before the definition of “application”–

““the 1997 Act” means the National Health Service (Primary Care) Act 1997;

“applicant” means a person who has made an application;”.

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(1) 1978 c. 29; section 19 was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 2 and was extended by the Health and Medicines Act 1988 (c. 49), section 17; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9, paragraph 24, contains provisions relevant to the making of Regulations.

(2) 1997 c. 46; section 40(2) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(3) 1992 c. 53.

(4) S.I. 1992/434, amended by S.I. 1994/3038, 1995/3201 and 1996/938.

(b) for the definition of “application” there shall be substituted–

““application” means an application for a direction under section 30 of the Act or paragraph 5 of Schedule 1 to the 1997 Act (termination of directions);”

### **Submission of a representation**

3. Regulation 24 (submission of a representation) of the principal Regulations shall be amended by inserting after paragraph (1) the following new paragraph:–

“(1A) Where the representations are made under paragraph 3 of Schedule 1 to the 1997 Act they shall be sent to the Tribunal within two weeks of receipt by the Health Board of an application to be included in their medical list by a medical practitioner, in relation to whom the Secretary of State has made a determination under section 13 of that Act.”.

### **Statement by the Tribunal**

4.—(1) Regulation 38 of the principal Regulations (statement by the Tribunal) shall be amended as follows.

(2) In paragraph (1) after sub-paragraph (d)(5) there shall be added–

“;

(e) such directions as they may make under paragraph 4(1) of Schedule 1 to the 1997 Act.”.

(3) In paragraph (2)(b)(6) after the word “direction” where it first occurs there shall be inserted the words “under paragraph 4(1) of Schedule 1 to the 1997 Act or”, and for the words from “any direction” to the end there shall be substituted–

“(i) any direction under the said paragraph 4(1), or

(ii) any direction under the said section 29(3) or 32B(1), or both.”.

### **Procedure in regard to application to the Tribunal for removal of disqualification**

5.—(1) Regulation 41 (procedure in regard to application to the Tribunal for removal of disqualification) of the principal Regulations, shall be amended as follows.

(2) In paragraph (4) after the word “Act” there shall be inserted the words “or under paragraph 4(1) of Schedule 1 to the 1997 Act”.

(3) In paragraph 7(d)(ii) at the end there shall be added the words “or that the disqualification of the applicant for inclusion in any list to which a direction under paragraph 4(1) of Schedule 1 to the 1997 Act related should be removed, a direction under paragraph 5 of the said Schedule to that effect”.

### **Publication of decisions**

6. In regulation 43 of the principal Regulations (publication of decisions of the Tribunal), after paragraph (b) there shall be added–

“;

(c) any direction of the Tribunal under paragraph 4(1) or 5 of Schedule 1 to the 1997 Act;

(d) any imposition or removal of a disqualification made in accordance with the provisions of paragraph 6 of Schedule 1 to the 1997 Act (direction in Northern Ireland).”.

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(5) Sub-paragraph (d) was added by [S.I. 1995/3201](#).

(6) Sub-paragraph (b) was added by [S.I. 1995/3201](#).

## **Publication of information about applications for preferential treatment**

7. After regulation 43 of the principal Regulations (publication of decisions), there shall be inserted the following new regulation:—

### **“Publication of information about applications for preferential treatment**

**43B.** The Secretary of State shall publish in such a manner as he thinks fit information about—

- (a) applications made to Health Boards for inclusion in their medical list of the names of medical practitioners ceasing to perform personal medical services in respect of whom Schedule 1 to the 1997 Act applies; and
- (b) the right of persons to make representations against applications referred to in paragraph (a).”.

## **Forms for use in connection with representations and applications**

8. The undernoted forms in Schedule 4 to the principal Regulations (forms for use in connection with representations and applications) shall be amended as follows:—

- (a) in Form 1 in paragraph 1 after the word “continued” there shall be inserted “(2A)”, and there shall be added a note (2A) to the Form as follows:—

“(2A) Delete in the case of a representation under paragraph 3 of Schedule 1 to the National Health Service (Primary Care) Act 1997.”;
- (b) in Form 2 in paragraph 1(a) after the word “continued” there shall be inserted “(3A)”, and there shall be added a note (3A) to the Form as follows:—

“(3A) Delete in the case of a representation under paragraph 3 of Schedule 1 to the National Health Service (Primary Care) Act 1997.”;
- (c) in Form 3 in paragraph 1 after the word “continued” there shall be inserted “(4A)”, and there shall be added a note (4A) to the Form as follows:—

“(4A) Delete in the case of a representation.”;
- (d) in Form 5 in paragraph 1 after the word “Act” where first occurring there shall be inserted the words “/paragraph 5 of Schedule 1 to the National Health Service (Primary Care) Act 1997” and after the word “Act” where second occurring there shall be inserted the words “/paragraph 4 of Schedule 1 to the National Health Service (Primary Care) Act 1997”;
- (e) in Form 6 in paragraph 1(a) after the word “Act” where first occurring there shall be inserted the words “/paragraph 5 of Schedule 1 to the National Health Service (Primary Care) Act 1997” and after the word “Act” where second occurring there shall be inserted the words “/paragraph 4 of Schedule 1 to the National Health Service (Primary Care) Act 1997”;
- (f) in Form 8 in paragraph 1 after the word “Act” where second occurring there shall be inserted the words “/paragraph 4 of Schedule 1 to the National Health Service (Primary Care) Act 1997”;
- (g) in Form 9 in paragraph 1(a) after the words “the said Act” there shall be inserted the words “/paragraph 4 of Schedule 1 to the National Health Service (Primary Care) Act 1997”.

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

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St Andrew's House,  
Edinburgh  
9th March 1998

*Sam Galbraith*  
Minister for Health

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992 to implement the provisions contained in Schedule 1 to the National Health Service (Primary Care) Act 1997 (“the 1997 Act”). Schedule 1 to the 1997 Act applies where the Secretary of State determines that a medical practitioner should be given preferential treatment when making an application for his name to be included in an Health Board’s medical list after ceasing to perform personal medical services. The 1997 Act provides that a Health Board or any other person may make representations to the National Health Service Tribunal (“the Tribunal”) against preferential treatment.

These Regulations provide that the procedure relating to representations against such preferential treatment will be similar to the provisions made for other representations to the Tribunal, except that any representations against preferential treatment must be made within a period of 14 days from the date an authority receives an application for inclusion in a medical list from a medical practitioner, in relation to whom the Secretary of State has determined should be given preferential treatment.

The 1997 Act provides, where representations against preferential treatment have been made, that the Tribunal may direct that the person’s name may not be included in the medical list kept by the Health Board. These Regulations provide for a procedure whereby someone who is subject to such a direction can apply to the Tribunal for such a direction to be removed.