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STATUTORY INSTRUMENTS

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**1998 No. 660**

**The National Health Service (General Medical Services)  
(Scotland) Amendment (No.2) Regulations 1998**

**PART II**

**AMENDMENTS CONSEQUENTIAL UPON THE NATIONAL  
HEALTH SERVICE (PRIMARY CARE) ACT 1997**

*Amendments connected with the National Health Service  
(Choice of Medical Practitioner (Scotland) Regulations 1998*

**Amendment of Parts I, IV and V of the 1995 Regulations**

**2.—(1)** The 1995 Regulations are amended in accordance with the following provisions of this regulation.

**(2)** In regulation 2(1) (interpretation)—

**(a)** in the appropriate alphabetical positions, insert—

““the 1997 Act” means the National Health Service (Primary Care) Act 1997(2);”;

““the Choice of Medical Practitioner Regulations” means the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(3);”;

““personal medical services” has the meaning assigned to it in section 1(8) of the 1997 Act;”;

““pilot doctor” means a doctor who performs personal medical services in connection with a pilot scheme;”;

““pilot scheme” has the meaning assigned to it in section 1(1) of the 1997 Act;”;

““pilot scheme agreement” means an agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme;”;

““pilot scheme provider” means a person who provides personal medical services in connection with a pilot scheme;”;

““pooled list” means a single list of the patients of two or more pilot doctors which is held in connection with a pilot scheme;”;

**(b)** in the definition of “doctor”, at the end, insert “and, when section 35 of the 1997 Act comes into force, includes a person engaged in employment under section 10 of the Medical Act 1983(4) in an approved medical practice(5);”

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(1) Regulation 2 was amended by [S.I. 1995/3199](#), [1996/1504](#), [1997/943](#) and [1998/4](#).

(2) [1997 c. 46](#).

(3) [S.I. 1998/659](#).

(4) [1983 c. 54](#); section 10 is prospectively amended by section 35(2) of the 1997 Act.

(5) See section 11(4), as prospectively amended by section 35(4) of the 1997 Act. No order bringing section 35 into force had been made at the date on which these Regulations were made.

- (c) for the definition of “medical card”, substitute—
- ““medical card” means a card issued by a Health Board to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services<sup>(6)</sup>, other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;” and
- (d) in the definition of “temporary resident”, for “regulation 26(2)” substitute “regulation 7 of the Choice of Medical Practitioner Regulations”.
- (3) Regulations 19 (selection of doctor) and 20 (assignment of persons to doctors) are omitted.
- (4) In regulation 22 (change of doctor) paragraphs (1) to (7) are omitted.
- (5) In regulation 24 (temporary provision of general medical services), in paragraph (2(7)), after “ceases to be entitled to be included in the medical list”, insert “(otherwise than in accordance with section 12(2) of the 1997 Act to enable him to perform personal medical services in connection with a pilot scheme to which the Health Board in whose list he was included is a party)”.
- (6) For regulation 26 (temporary residents), substitute—

**“Temporary residents**

**26.—**(1) A person who is accepted as a temporary resident by a doctor under regulation 7 of the Choice of Medical Practitioner Regulations or by a pilot scheme provider under a pilot scheme agreement shall not be removed from the list of any doctor providing general medical services in which his name is included, unless the Health Board for the area in which that doctor practises is satisfied, after due enquiry—

- (a) that the person’s stay in the place of temporary residence has exceeded 90 days; and
- (b) that he has not returned to his normal place of residence or any other place within the practice area of the doctor in whose list his name is included.

(2) If a Health Board is satisfied as mentioned in paragraph (1), it shall remove the name of the person from the list of the doctor in which it is included and, if practicable, inform the person of that fact and of his entitlement to seek acceptance by any doctor, including the doctor by whom he has been treated as a temporary resident, in the area in which he is living, and of the name and address of the Health Board for that area.”.

- (7) In regulation 27 (doctors' lists)—
- (a) in paragraph (2), for “regulation 22(4)” substitute “regulation 3(3) of the Choice of Medical Practitioner Regulations”;
- (b) for paragraph (4), substitute—
- “(4) Any removal of a person from a doctor’s list caused by the transfer of a person to the list of another doctor or to a pooled list, other than a transfer under regulation 3(3) of the Choice of Medical Practitioner Regulations, or a transfer in pursuance of a notice under regulation 22(8), shall take effect—
- (a) from the date on which the Health Board receives notification of the acceptance of the person by the last-named doctor or, in the case of a transfer to a pooled list, the pilot scheme provider; or
- (b) subject to the consent of the Health Board, from such date, being not earlier than the date of that consent, as may be agreed between the doctors or, as the case may be, between the doctor and the pilot scheme provider.”.

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(6) “Primary medical services” is defined in section 17F(6) of the Act, inserted by section 23(2) of the 1997 Act.

(7) Regulation 24(2) was amended by [S.I. 1995/3199](#).

(8) In regulation 31 (obtaining maternity medical services)(8), in paragraph (4), for “regulation 19” substitute “regulation 2 of the Choice of Medical Practitioner Regulations”.

### **Amendment of Schedule 1 to the 1995 Regulations**

3.—(1) Schedule 1 to the 1995 Regulations (terms of service for doctors) is amended in accordance with the following provisions of this regulation.

(2) In paragraph 4 (a doctor’s patients) in sub-paragraph (4), for “regulation 20(1)”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”.

(3) In paragraph 5 (relief from liability to give emergency treatment) for “regulation 20(2)” substitute “regulation 4(8) of the Choice of Medical Practitioner Regulations”.

(4) In paragraph 7 (acceptance of patients), in sub-paragraph (b) for “regulation 26(1)”, substitute “regulation 7(1) of the Choice of Medical Practitioner Regulations”.

(5) In paragraph 9 (right of a doctor to have a patient removed from his list) in paragraph (1), after “another doctor” where it occurs in both places insert “, or the date of acceptance of his inclusion in a pooled list”.

(6) In each of—

- (a) paragraph 13(5)(a) (provision of services to patients);
- (b) paragraph 14(1) (newly registered patients); and
- (c) paragraph 16(4) (patients aged 75 years and over),

for “regulation 20”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”.

### **Amendment of Schedule 4A to the 1995 Regulations**

4. In Schedule 4A to the 1995 Regulations(9) (maternity medical services), in paragraph 3(b), for “regulation 19(1)”, substitute “regulation 2 of the Choice of Medical Practitioner Regulations”.

*Amendments connected with the National Health Service  
(Pilot Schemes: Part II Practitioners) Regulations 1998*

### **Further amendment of Schedule 1 to the 1995 Regulations**

5.—(1) Schedule 1 to the 1995 Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph 18 (obligation to give treatment personally)—

- (a) in sub-paragraph (3), after “child health surveillance list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of child health surveillance services under the pilot scheme”; and
- (b) in sub-paragraph (4), after “minor surgery list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of minor surgery services under the pilot scheme”;
- (c) in sub-paragraph (5), after “sub-paragraph (6)” insert “or for which the doctor is not responsible under sub-paragraph (6A)”; and
- (d) after sub-paragraph (6), insert—

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(8) Regulation 31 was substituted by [S.I. 1997/943](#), regulation 4.

(9) Schedule 4A was inserted by [S.I. 1997/943](#), regulation 6 and the Schedule.

“(6A) Where, in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients, a pilot doctor acts as a deputy to a doctor whose name is included in the medical list, that doctor is not responsible for the acts or omissions of the pilot doctor.”.

- (3) In paragraph 19(10) (organisations providing deputy doctors), for paragraph (1), substitute—
- “(1) In this paragraph “organisation providing deputy doctors” means a person who provides deputies to doctors and includes a body which—
- (a) consists only of—
    - (i) doctors whose names are included in the list of a Health Board and who arrange to act as deputies to each other, or
    - (ii) pilot doctors and doctors whose names are included in the list of a Health Board who co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients; and
  - (b) keeps separate accounts in relation to such arrangements.”.

#### *Other amendments*

#### **Other amendments of the 1995 Regulations**

6.—(1) The 1995 Regulations are amended in accordance with the following provisions of this regulation.

(2) In regulation 28(12)(a) (child health surveillance list) for “regulation 7 or regulation 8”, substitute “regulation 7, regulation 8, or section 12(2) of the 1997 Act”.

(3) In Schedule 1—

- (a) in paragraph 17A(11) (out of hours arrangements), at the end of sub-paragraph (2), add “, but that arrangement shall terminate if the doctor with whom it is made ceases to be included in a medical list to enable him to perform personal medical services under a pilot scheme”;
- (b) in paragraph 19 (organisations providing deputy doctors), in sub-paragraph (2)(a), after paragraph (iii), insert—
  - “(iv) will not be subject to a direction under paragraph 4 of Schedule 1 to the 1997 Act that his name is not to be included in a medical list;”;
- (c) insert a new paragraph 20A as follows:—
  - “**20A.** 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

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(10) Paragraph 19 was substituted by S.I. 1997/943, regulation 5(6).

(11) Paragraph 17A was inserted by S.I. 1996/842, regulation 4(5).

he is not fit to be engaged in any capacity in the provision of general medical services; or

- (b) who is suspended by direction of the Tribunal other than in a case falling within section 32B(3) of the Act; or
- (c) who is subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services.”.