SCOTTISH STATUTORY INSTRUMENTS

2005 No. 337

NATIONAL HEALTH SERVICE

The National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2005

Made - - - -	*8th June 2005*
Laid before the Scottish Parliament - - - -	*9th June 2005*
Coming into force - -	*1st July 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17L(1), 17N, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2005 and shall come into force on 1st July 2005.

(2) In these Regulations, "the principal Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**2**).

Amendment of regulation 2 of the principal Regulations

2.—(1) Regulation 2(1) (interpretation)(**3**) of the principal Regulations is amended as follows.

(2) In the definition of "general medical practitioner"–

(a) after "means" insert ", unless the context otherwise requires";

(b) in sub-paragraph (a), omit "otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order";

(**1**) 1978 c. 29; section 17L(1) and 17N were inserted by section 4 of the Primary Medical Services (Scotland) Act 2004 (asp 1); section 105(7), which contains provisions relevant to the making of regulations, was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.S.I. 2004/115; the relevant amending instrument is S.S.I. 2004/215.

(**3**) Regulation 2 was amended by S.S.I. 2004/215.

(c) in sub-paragraph (b)(i) before "; or" insert "or a person who has an acquired right to practise as a general medical practitioner pursuant to regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(**4**)"; and

(d) in sub-paragraph (b)(ii) omit "other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to the 2003 Order".

(3) For the definition of "GP Registrar", substitute–

""GP Registrar" means a medical practitioner who is being trained in general practice by–

(a) until the coming into force for all purposes of article 4(5)(d) of the 2003 Order, a general medical practitioner who–

(i) has been approved for that purpose by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(**5**); and

(ii) performs primary medical services; and

(b) from the coming into force for all purposes of that article, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;".

(4) Omit the definition of "GP Trainer".

(5) In the definition of "out of hours services", in sub-paragraph (a) after "provided" insert "by a contractor to its registered patients"

(6) In the definition of "supplementary prescriber"–

(a) in sub-paragraph (b)(ii) omit "or"; and

(b) at the end of sub-paragraph (b)(iii) for "and" in the second place where it occurs, substitute–

"or

(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**6**) relating to–

(aa) chiropodists and podiatrists;

(bb) physiotherapists; or

(cc) radiographers: diagnostic or therapeutic, and".

Amendment of regulation 4 of the principal Regulations

3. At the end of regulation 4 (conditions relating solely to medical practitioners) of the principal Regulations insert–

"(4) In paragraph (1), (2)(a) and (3)(a), "general medical practitioner" does not include–

(**4**) S.I.1994/3130; regulation 5 was amended by S.I. 1998/669 and modified by S.S.I. 2004/163. The whole regulations are prospectively revoked by S.I. 2003/1250.
(**5**) S.I. 1998/5; the relevant amending instrument is S.I. 1998/669. The whole regulations are prospectively revoked by S.I. 2003/1250.
(**6**) S.I. 2002/254.

(a) from the coming into force of article 10 of the 2003 Order(**7**), a medical practitioner whose name is included in the General Practitioner Register by virtue of–

(i) paragraph 1(a) of Schedule 6 to that Order by virtue of his having been a restricted services principal included in a list specified in that paragraph;

(ii) paragraph 1(d) of that Schedule; or

(iii) article 11(2) of that Order(**8**) because of an exemption under regulation 5(1)(d) of the regulations specified in paragraph (5);

(b) until the coming into force of article 10 of the 2003 Order, a medical practitioner who either–

(i) until the coming force of paragraph 22 of Schedule 8 to that Order(**9**)–

(aa) has an acquired right to practise as a general medical practioner pursuant to regulation 5(1)(a) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 only by virtue of having been a restricted services principal included in a list specified in that paragraph, or regulation 5(1)(d) of those Regulations; or

(bb) is exempt from the need to be suitably experienced by virtue of regulation 5(1)(d) of the regulations specified in paragraph (5); or

(ii) upon the coming into force of that paragraph of that Schedule to that Order, is an eligible general practitioner pursuant to that paragraph by virtue of an acquired right under the provisions listed in sub-paragraph (a)(i) to (iii).

(5) The regulations referred to in paragraph (4)(a)(iii) and (b)(i)(bb) are the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(**10**), the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(**11**) and the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(**12**).

(6) In paragraph (4) "restricted services principal" has the same meaning as in the 2003 Order.".

Amendment of Schedule 1 to the principal Regulations

4. In paragraph 4(2)(a) (vaccinations and immunisations) of Schedule 1 (additional services) to the principal Regulations, for "influenza vaccination" substitute "influenza and pneumococcal vaccinations".

Amendment of Schedule 5 to the principal Regulations

5.—(1) Schedule 5 (other contractual terms) to the principal Regulations is amended as follows.

(2) After paragraph 1 (premises), insert–

(**7**) Article 10 was amended by S.I. 2004/865, 1016, 2261 and 3038.
(**8**) Article 11 was amended by S.I. 2004/865, 1016 and 1947.
(**9**) Paragraph 22 of Schedule 8 is amended by S.I. 2004/865, 1016, 2261 and 3038.
(**10**) Regulation 5 is amended by S.I. 2003/3148 and was modified by S.S.I. 2004/163 and 372.
(**11**) S.I. 1997/2817; regulation 5 is amended by S.I. 2003/3148 and modified by S.I. 2004/865. The whole regulations are prospectively revoked by S.I. 2003/1250.
(**12**) S.R. 1998/13; regulation 5 is amended by S.I. 2003/3148 and modified by S.R. 2004/156. The whole regulations are prospectively revoked by S.I. 2003/1250.

"**Telephone services**

1A.—(1) The contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used–

(a) by patients to contact the practice for any purpose related to the contract; or

(b) by any other person to contact the practice in relation to services provided as part of the health service,

starts with the digits 087, 090 or 091 or consists of a personal number, unless the service is provided free to the caller.

(2) In this paragraph, "personal number" means a telephone number which starts with the number 070 followed by a further 8 digits.".

(3) In paragraph 31 (rejection of closure notice by the Health Board), after sub-paragraph (7) insert–

"(7A) Subject to sub-paragraph (7B), the contractor's list of patients shall remain closed for the period specified by the assessment panel in accordance with sub-paragraph (7)(b).

(7B) The contractor's list of patients shall re-open before the expiry of the period mentioned in sub-paragraph (7A) if–

(a) the number of the contractor's registered patients falls to the number specified by the assessment panel in accordance with sub-paragraph (7)(b) as the number of registered patients which, if that number were reached, would trigger the re-opening of the contractor's list of patients; or

(b) the Health Board and the contractor agree that the list of patients should re-open.

(7C) If the contractor's list of patients has re-opened pursuant to sub-paragraph (7B)(a), it shall nevertheless close again if, during the period specified by the assessment panel as the period for which the list should remain closed, the number of the contractor's registered patients rise to the number specified by the assessment panel in accordance with sub-paragraph (7)(b) as the number of registered patients which, if that number were reached, would trigger the re-closure of the contractor's list of patients.

(7D) Except in cases where the contractor's list of patients is already open pursuant to paragraph (7B), the Health Board shall notify the contractor in writing between seven and fourteen days before the expiry of the closure period specified in paragraph (7A), confirming the date on which the contractor's list of patients will re-open.".

(4) In paragraph 41 (restrictions on prescribing by supplementary prescribers)(**13**) omit sub-paragraphs (2)(b), (4)(c) and (f) and (6).

(5) In paragraph 46(2) (qualifications of performers)–

(a) for paragraph (c) substitute–

"(c) a GP Registrar who has applied to the Health Board to have the GP Registrar's name included in the primary medical services performers list of the Health Board, until the first of the following events arises:–

(i) the Health Board notifies the GP Registrar of the Board's decision on that application;

(ii) the end of a period of 2 months, starting with the date on which the GP Registrar's vocational training scheme begins."; and

(b) at the end insert–

(**13**) paragraph 41 of Schedule 5 was amended by S.S.I. 2004/215.