SCOTTISH STATUTORY INSTRUMENTS

2005 No. 118

NATIONAL HEALTH SERVICE

The National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 2005

Made - - - -	*2nd March 2005*
Laid before the Scottish Parliament - - - -	*3rd March 2005*
Coming into force - -	*1st April 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17P, 25(2), 26(2), 27(2), 105(7), section 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals and its Scottish Committee in accordance with sections 8(1) and (3) of the Tribunal and Inquiries Act 1992(**2**), hereby make 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 2005 and shall come into force on 1st April 2005.

(2) In these Regulations "the principal Regulations" mean the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**3**).

(**1**) 1978 c. 29; section 17P was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1) ("the 2004 Act"), section 5(2) and is extended by the Health and Medicines Act 1988 (c. 49) ("the 1988 Act"), section 17 by virtue of S.S.I. 2004/167; section 25(2) was amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 40(2) and Schedule 9, paragraph 19, the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), Schedule 2, paragraph 43 and Schedule 3, and the Health Act 1999 (c. 8) ("the 1999 Act"), section 56 and was extended by the 1988 Act, section 17; section 26(2) was amended by the Health and Social Security Act 1984 (c. 48), Schedule 1, paragraphs 2, 3 and 4 and Schedule 8, the 1999 Act, section 56 and extended by the 1988 Act, section 17; section 27(2) was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3, and amended by the 1990 Act, Schedule 9, paragraph 19 and extended by the 1988 Act, section 17; section 105(7) 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 1999 Act, Schedule 4, paragraph 60; section 108(1) defines "prescribed" and "regulations". 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**) 1992 c. 53.

(**3**) S.I.1992/434. Relevant amending instruments are S.I. 1994/3038, 1995/3201, 1996/841 and 938, 1998/1424 and S.S.I. 1999/53 and 2004/38.

Amendment of the principal Regulations

2.—(1) The principal Regulations shall be amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)(**4**)–

(a) in paragraph (2)–

(i) in the definition of "complaint" after "providing" insert "or performing services under Part I of the Act or providing";

(ii) for the definition of "doctor" substitute–

""doctor" means a fully registered medical practitioner excluding an ophthalmic medical practitioner unless performing primary medical services;"

(iii) in the definition of "doctor's panel" for "provision of general medical services" substitute "performance of primary medical services" in both places where it occurs;

(iv) for the definition of "drug tariff" substitute–

""drug tariff" means the statement prepared under regulation 9 (payments to pharmacists and standards of drugs and appliances) of the Pharmaceutical Services Regulations;"

(v) for the definition of "General Dental Services Regulations" substitute–

""General Dental Services Regulations" means the National Health Service (General Dental Services) (Scotland) Regulations 1996(**5**);"

(vi) in the definition of "list of professional persons" omit paragraph (a);

(vii) for the definition of "terms of service" substitute–

""terms of service" means–

(a) the requirements with which a doctor included in the primary medical services performers list must comply under or by virtue of regulation 8 of the Primary Medical Services Performers Lists Regulations;

(b) the terms of service for dentists contained in Schedule 1 to the General Dental Services Regulations;

(c) the terms of service for ophthalmic medical practitioners and opticians contained in Schedule 1 to the General Ophthalmic Services Regulations; or

(d) the terms of service for pharmacists contained in Schedule 1 to the Pharmaceutical Services Regulations,

as the case may be;";

(viii) in the definition of "treatment"–

(aa) omit "in relation to general medical services, has the same meaning as in the General Medical and Pharmaceutical Services Regulations and,";

(bb) in sub-paragraph (b) for "regulation 11(4)(c)" substitute "regulation 7(5)(b)(i)"; and

(cc) for sub paragraph (b)(iv) substitute–

"(iv) treatment under a capitation arrangement for which the dentist is only to be remunerated in accordance with a scale of fees for

(**4**) Regulation 1 was amended by S.I. 1996/938 and 1998/1424 and S.S.I. 1999/53. The definition of "doctor" is prospectively amended by S.I. 2002/3135.

(**5**) S.I. 1996/177.

treatment under a capitation arrangement in Determination I of the Statement of Dental Remuneration;";

(ix) omit the definitions of "drugs", "General Medical and Pharmaceutical Services Regulations" and "primary care NHS trust"; and

(x) insert the following definitions at the appropriate place in alphabetical order–

""Pharmaceutical Services Regulations" means the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**6**);";

""primary medical services performers list" means the list maintained by a Health Board under the Primary Medical Services Performers Lists Regulations;";

""Primary Medical Services Performers Lists Regulations" means the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004(**7**);";

""section 17C agreement" means an agreement under section 17C of the Act(**8**);"; and

""Statement of Dental Remuneration" means the statement published under regulation 22 (statement of dental remuneration) of the General Dental Services Regulations (**9**);"; and

(b) for paragraph (4)(b) substitute–

"(b) the terms of a general medical services contract which give effect to Part 6 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**10**) or the terms of a section 17C agreement which give effect to Part 6 of Schedule 1 to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(**11**);".

(3) In regulation 3 (provisions relating to the start of disciplinary proceedings)(**12**)–

(a) for paragraph (5) substitute–

"(5) In these Regulations "appropriate Health Board"–

(a) in relation to a doctor, is–

(i) the Health Board in whose primary medical services performers list the name of the doctor was included at the relevant time; or

(ii) where the doctor was at the relevant time on more than one such list, the Health Board which was, under section 2C(1) of the Act(**13**) under a duty to provide or secure the provision of the primary medical services giving rise to the allegation;

(b) in relation to any other practitioner is–

(i) the Health Board in whose dental, ophthalmic or pharmaceutical list the name of the practitioner was included at the relevant time; or

(**6**) S.I. 1995/414.
(**7**) S.S.I. 2004/114.
(**8**) Section 17C was inserted by the 1997 Act, section 21(2) and amended by the 2004 Act, section 2(2).
(**9**) Regulation 22 was amended by S.S.I. 2000/352, 2001/368, 2002/99 and 268, 2003/131 and 422 and 2004/ .
(**10**) S.S.I. 2004/115.
(**11**) S.S.I. 2004/116.
(**12**) Regulation 3 was amended by S.I. 1994/3038 and 1996/938 and S.S.I. 1999/53.
(**13**) Section 2C was inserted by the 2004 Act, section 1(2).