SCOTTISH STATUTORY INSTRUMENTS

2004 No. 116

NATIONAL HEALTH SERVICE

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004

Made - - - -	*10th March 2004*
Laid before the Scottish Parliament - - - -	*11th March 2004*
Coming into force - -	*1st April 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 9(6), 17D, 17E, 28(1), 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:

PART 1

GENERAL

Citation and commencement

1. These Regulations may be cited as the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 and shall come into force on 1st April 2004.

Interpretation

2. In these Regulations–

"the Act" means the National Health Service (Scotland) Act 1978;

"the 2004 Act" means the Primary Medical Services (Scotland) Act 2004(**2**);

(**1**) 1978 c. 29; section 17D was inserted by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), section 21(2) and amended by the Primary Medical Services (Scotland) Act (asp 1) ("the 2004 Act"), section 2(3); section 17E was inserted by the 1997 Act, section 22(2) and amended by the Health Act 1999 (c. 8), Schedule 4, paragraph 47 and the 2004 Act, section 2(4); section 28 was amended by the National Health Service (Amendment) Act 1986 (c. 66), section 3(4) and the National Health Service and Community Care Act 1990 (c. 19) Schedule 9, paragraph 19(8); section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and by the Health and Social Services and Social Security Adjudications Act1983 (c. 41), Schedule 7, paragraph 24; 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**) 2004 asp 1.

"the 2003 Order" means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**3**);

"additional services" means one or more of–

(a) cervical screening services;

(b) contraceptive services;

(c) vaccinations and immunisations;

(d) childhood vaccinations and immunisations;

(e) child health surveillance services;

(f) maternity medical services; and

(g) minor surgery;

"adjudicator" means the Scottish Ministers or a panel of 3 persons appointed by the Scottish Ministers under paragraph 56 of Schedule 1;

"agreement" means, unless the context otherwise requires, an agreement pursuant to section 17C of the Act(**4**) (personal medical or dental services) under which primary medical services are provided;

"appliance" means an appliance which is included in a list for the time being approved by the Scottish Ministers for the purposes of section 27(1)(**5**) of the Act;

"approved medical practice" shall be construed in accordance with section 11(4) of the Medical Act 1983(**6**);

"area medical committee" means the committee of that name recognised under section 9 of the Act (local consultative committees) in the area of the Health Board;

"area pharmaceutical committee" means the committee of that name recognised under section 9 of the Act (local consultative committees) in the area of the Health Board;

"assessment panel" means a committee or sub-committee of a Health Board ("the first Health Board") (other than the Health Board ("the second Health Board") which is a party to the agreement in question) appointed by the first Health Board at the request of the second Health Board to exercise functions under paragraph 23 or paragraph 27 of Schedule 2 and which shall consist of–

(a) the Chief Executive of the first Health Board or an Executive Director of that Health Board nominated by that Chief Executive;

(b) a person representative of patients in an area other than that of the second Health Board; and

(c) a person representative of the area medical committee which does not represent practitioners in the area of the second Health Board;

"CCT" means a Certificate of Completion of Training awarded under article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in article 20(3)(a) of that Order;

"cervical screening services" means the services described in paragraph 2(2) of Schedule 3;

(**3**) S.I.2003/1250.

(**4**) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and was amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 2(2).

(**5**) Section 27 was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, the Medicine Products: Prescription by Nurses etc. Act 1992 (c. 28), section 3, the National Health Service (Primary Care) Act1997 (c. 46), Schedule 2, paragraph 44, the Health and Social Care Act 2001 (c. 15), section 44 and S.I. 2003/1590.

(**6**) 1983 c. 54; section 11(4) was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 35(4) and Schedule 2, paragraph 61(2).

"charity trustee" means one of the persons having the general control and management of the administration of a charity;

"child" means a person who has not attained the age of 16 years;

"child health surveillance services" means the services described in paragraph 6(2) of Schedule 3;

"childhood vaccinations and immunisations" means the services described in paragraph 5(2) of Schedule 3;

"closed", in relation to a provider's list of patients, means closed to applications for inclusion in the list of patients other than from immediate family members of registered patients;

"contraceptive services" means the services described in paragraph 3(2) of Schedule 3;

"core hours" means the period beginning at 8 a.m. and ending at 6.30 p.m. on any working day;

"dispensing services" means the provision of drugs, medicines and appliances;

"disqualified" means, unless the context otherwise requires, local or national disqualification by the Tribunal (or a decision under provisions in force in England, Wales or Northern Ireland corresponding to local or national disqualification), but does not include conditional disqualification;

"Drug Tariff" means the statement published under regulation 9 (payments to pharmacists and standards of drugs and appliances) of the Pharmaceutical Regulations;

"enhanced services" are–

(a) services other than essential services, additional services or out of hours services; or

(b) essential services or additional services or out of hours services or an element of such a service that a provider agrees in the agreement to provide in accordance with specifications set out in a plan, which requires of the provider an enhanced level of service provision compared to that which the provider needs generally to provide in relation to that service or element of service;

"essential services" means the services described in paragraph 1(2),(4), (5) and (7) of Schedule 2;

"general medical practitioner" means–

(a) from the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the General Practitioner Register otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order; and

(b) until the coming into force of that article, a medical practitioner who is either–

  (i) until the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, suitably experienced within the meaning of section 21(2) of the Act, section 31(2) of the National Health Service Act 1977(**7**) or Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978(**8**); or

  (ii) upon the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, an eligible general practitioner pursuant to that paragraph other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to the 2003 Order;

"general medical services contract" means a general medical services contract under section 17J of the Act(**9**) (Health Boards power to enter into general medical services contracts);

(**7**) 1977 c. 49.
(**8**) S.I. 1978/1907 (N.I. 26).
(**9**) Section 17J was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4.

"general medical services contractor" means a person who is providing primary medical services in accordance with a general medical services contract;

"General Practitioner Register" means the register kept by the General Medical Council under article 10 of the 2003 Order;

"GMS Contracts Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**10**);

"GP Registrar"–

(a) until the coming into force of article 5 of the 2003 Order, means a medical practitioner who is being trained in general practice by a 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(**11**); and

(ii) performs primary medical services; and

(b) from the coming into force of that article, means a medical practitioner who is being trained in general practice by a GP Trainer whether as part of training leading to the award of a CCT or otherwise;

"GP Trainer" means a general medical practitioner who is–

(a) until the coming into force of article 4(5)(d) of the 2003 Order, approved as a GP Trainer 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; or

(b) from the coming into force of that article, approved by the Postgraduate Medical Education and Training Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i) of that Order;

"Health and Social Services Board" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972(**12**);

"Health and Social Services trust" means a Health and Social Services trust established under Article 10(1) of the Health and Personal Social Services (Northern Ireland) Order 1991(**13**);

"Health Authority" means a Health Authority established under section 8 of the National Health Service Act 1977;

"Health Board" means, unless the context otherwise requires, the Health Board which is a party, or prospective party, to an agreement;

"health care professional" has the same meaning as in section 17D(2) of the Act(**14**) and "health care profession" shall be construed accordingly;

"health service body" means any person or body referred to in section 17A(2)(**15**) of the Act (NHS contracts) and includes, except where otherwise expressly provided, any provider who is to be treated as a health service body in accordance with regulation 8;

"immediate family member" means–

(**10**) S.S.I. 2004/115.
(**11**) S.I. 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23.
(**12**) S.I. 1972/1265 (N.I. 14).
(**13**) S.I. 1991/194 (N.I. 1).
(**14**) Section 17D(2) was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and was amended by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 23(d) and schedule, paragraph 1(3).
(**15**) Section 17A(2) was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 30 and amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 102(2), the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 36, the Health Act 1999 (c. 8), Schedule 4, paragraph 46 and S.I. 1991/195.

(a) a spouse;

(b) a person (whether or not of the opposite sex) whose relationship with the registered patient has the characteristics of the relationship between husband and wife;

(c) a parent or step-parent;

(d) a son;

(e) a daughter;

(f) a child of whom the registered patient is–

(i) the guardian; or

(ii) the carer duly authorised by the local authority to whose care the child has been committed under the Children (Scotland) Act 1995(**16**); or

(g) a grandparent;

"independent nurse prescriber" means a person–

(a) who is either engaged or employed by the provider, is a party to the agreement or is a partner in a partnership that is a party to the agreement;

(b) who is registered in the Nursing and Midwifery Register; and

(c) in respect of whom an annotation is also recorded in that register signifying that the person is qualified to order drugs, medicines and appliances from–

(i) the Nurse Prescribers' Formulary for District Nurses and Health Visitors in Part 8B of the Drug Tariff; or

(ii) the Nurse Prescribers' Extended Formulary in Part 8C of the Drug Tariff;

"licensing authority" shall be construed in accordance with section 6(3) of the Medicines Act 1968(**17**);

"licensing body" means any body that licenses or regulates any profession;

"limited partnership" means a partnership registered in accordance with section 5 of the Limited Partnerships Act 1907(**18**);

"list" has, unless the context otherwise requires, the meaning assigned to it in section 29(8) of the Act(**19**) and includes a list corresponding to such a list in England, Wales or Northern Ireland;

"Local Health Board" means a Local Health Board established under section 16BA of the National Health Service Act 1977(**20**) (local health boards);

"local or national disqualification" has the meaning indicated in section 29B(2) of the Act(**21**)

"maternity medical services" means the services described in paragraph 7 of Schedule 3;

"medical card" means a card issued by a Health Board, Primary Care trust, Local Health Board, Health Authority or Health and Social Services Board to a person for the purpose of enabling that person to obtain, or establishing that person's title to receive, primary medical services;

(**16**) 1995 c. 36 .
(**17**) 1968 c. 67.
(**18**) 1907 c. 24.
(**19**) Section 29(8) was substituted by the Health Act 1999 (c. 8), section 58(1) and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), Schedule 2, paragraph 2(4)(b) and the Primary Medical Services (Scotland) Act 2004 (asp 1), section 5(3).
(**20**) 1977 c. 49. Section 16BA was inserted by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 6.
(**21**) Section 29B(2) was inserted by the Health Act 1999 (c. 8), section 58 and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), schedule 2, paragraph 2 and the Primary Medical Services (Scotland) Act 2004 (asp 1), schedule, paragraph 1(13).