Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

SCOTTISH STATUTORY INSTRUMENTS

2004 No. 114

NATIONAL HEALTH SERVICE

The National Health Service (Primary Medical Services Performers Lists) (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 17P, 32E, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978 [F1] and of all other powers enabling them in that behalf, hereby make the following Regulations:

F1 1978 c. 29. Section 17P was inserted by the Primary Medical Services (Scotland) Act 2004 asp 1 ("the 2004 Act"), section 5(2); section 32E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 8; section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and by the Health Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, 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).

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Primary Medical Services Performers Lists) (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;

[F2]...

"the 2002 Order" means the Medical Act 1983 (Amendment) Order 2002 [F3];

[F4]...

[F5]...

"the 2004 Act" means the Primary Medical Services (Scotland) Act 2004 [F6];

[F7“the 2007 Act” means the Protection of Vulnerable Groups (Scotland) Act 2007;**]**

[F7“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 (Common Services Agency) of the Act;**]**

“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) of the Act;

“approved medical practice” has the meaning indicated in section 11(4) of the Medical Act 1983 F8;

“area medical committee” means the committee of that name recognised under section 9 of the Act F9(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;

[F10“armed forces GP” means a medical practitioner who—

(a) is employed under a contract of service by the Ministry of Defence whether or not as a member of the armed forces of the Crown; and

(b) is entered on the GP Register;**]**

[F7“barred from regulated work” means barred from regulated work with children or adults within the meaning of section 92(1) or (2) (individuals barred from regulated work) of the 2007 Act;**]**

[F11“both registers” means the register of medical practitioners and the GP Register;**]**

“CCT” means Certificate of Completion of Training awarded under **[**F12section 34L(1) of the Medical Act 1983**]**F13...;

F14...

“conditional disqualification” has the meaning indicated in section 29C(1) of the Act F15 and includes a decision under provisions in force in England, Wales or Northern Ireland corresponding to a conditional disqualification, and “conditionally disqualified” shall be construed accordingly;

[F16“condition for disqualification” means–

(i) the first condition for disqualification set out in section 29(6) of the Act;

(ii) the second condition for disqualification set out in section 29(7) of the Act; or

(iii) the third condition for disqualification set out in section 29(7A) of the Act;**]**

[F7“considered for listing” means considered for listing by the Scottish Ministers in the children’s list or adults’ list or in both lists in pursuance of section 10, 11, 12 or 13 (consideration whether to list) of the 2007 Act;**]**

[F17“corresponding decision” has the same meaning as in section 32D of the Act;**]**

[F7“disclosure record” has the meaning given in section 97(1) (general interpretation) of the 2007 Act;**]**

[F7“disclosure request” has the meaning given in section 97(1) of the 2007 Act;**]**

“disqualification” means F18... 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, and “disqualified” shall be construed accordingly;

[F19“EEA State” means a member State, Norway, Iceland or Lichtenstein;**]**

"equivalent body" means, in England, **[**F20the National Health Service Commissioning Board or, in relation to any time prior to 1st April 2013,**]** a Primary Care Trust, in Wales, a Local Health Board or, in Northern Ireland, a Health and Social Services Board;

"equivalent list" means a list kept by an equivalent body;

F21...

"Fitness to Practise Panel" means a panel constituted pursuant to paragraph 19E of Schedule 1 to the Medical Act 1983 F22;

"fraud" means matters which it is the function of the Agency to prevent, detect or investigate by virtue of **[**F23article 2 (functions of the Agency) of the National Health Service (Functions of the Common Services Agency) (Scotland) Order 2008**]**;

"General Medical Services Contracts Regulations" means **[**F24the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018**]**;

[F25"GP Register" means the register kept by virtue of section 34C of the Medical Act 1983;

"GP Registrar" means a medical practitioner who is being trained in general practice by a GP Trainer, whether as part of training leading to a CCT or otherwise;

"GP Trainer" means a general medical practitioner, other than a GP Registrar, who is approved by the General Medical Council for the purposes of providing training to a GP Registrar;

"general medical practitioner" means a GP Registrar or a medical practitioner whose name is included in the GP Register;**]**

"health case" has the meaning ascribed to it by section 35E(4) of the Medical Act 1983 F26;

"licensing or regulatory body" means a body that licenses or regulates any profession of which the general medical practitioner is, or has been a member, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

"list" has, unless the context otherwise requires, the same meaning as in section 29(8) of the Act;

"medical practitioner" means a registered medical practitioner, and includes for the purposes of these Regulations, a person provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals)**[**F27, section 21 (provisional registration of EEA nationals etc. with certain overseas qualifications) or section 21C (provisional registration of persons with an overseas qualification)**]** of the Medical Act 1983 F28F29...;

F30...

[F7"NHS Education for Scotland" means the body of the same name constituted under the NHS Education for Scotland Order 2002;**]**

[F7"partnership" includes a limited liability partnership;**]**

"performer" means a person included in a primary medical services performers list;

"pharmacist" means–

(a) a registered pharmacist within the meaning of the Medicines Act 1968 F31 who provides pharmaceutical services;

(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 (general provisions) of that Act F32 who provides such services; or

(c) a supplier of appliances,

who is included in the list of a Health Board under section 27 (arrangements for provision of pharmaceutical services) of the Act [F33];

[F4]…

[[F34]"post-registration programme" means a programme of post-registration supervised clinical practice;**]**

"primary medical services performers list" means a list of medical practitioners prepared pursuant to regulation 4(1);

"professional conduct" includes matters relating both to professional conduct and professional performance;

"Professional Conduct Committee" means the Professional Conduct Committee of the General Medical Council referred to in section 1(3) of the Medical Act;

"professional registration number" means the number against the medical practitioner's name in the register of medical practitioners kept by the General Medical Council;

"provider of primary medical services" means a general medical practitioner, who, in addition to performing primary medical services, provides (including by virtue of being a partner in **[**[F35]or member of**]** a partnership **[**[F36]or company**]** which so provides) primary medical services in accordance with arrangements under section 2C(2) (functions of Health Boards: primary medical services), an agreement under section 17C (personal medical or dental services) or a general medical services contract under section 17J (Health Board's power to enter into general medical services contracts) of the Act [F37];

"register of medical practitioners" has the meaning given to it by section 2(2) of the Medical Act 1983 [F38];

[[F7]"relevant Health Board" means a Health Board on whose primary medical services performers list a performer is already included, or a Health Board which an applicant has specified by virtue of regulation 6(2);**]**

"relevant service in the armed forces" means whole time service in the armed forces of the Crown in a national emergency, as a volunteer or otherwise, or a compulsory whole-time service in those forces, including any service resulting from any reserve liability, or any equivalent service by a person liable for compulsory whole-time service in those forces;

[[F7]"scheme member" means a member of the Scheme, established by section 44 (the Scheme) of the 2007 Act, in relation to both—

(a) regulated work with children, as defined in section 91(2) (regulated work) of the 2007 Act; and

(b) regulated work with adults, as defined in section 91(3) of the 2007 Act;**]**

[F39]…

"Section 17C Agreements Regulations" means **[**[F40]the National Health Service (Primary Medical Services Section 17C Agreement) (Scotland) Regulations 2018**]**;

[[F41]"suspended by a Health Board" means suspended by a Health Board in terms of regulation 8A;

"suspended by direction of the Tribunal" means suspended as respects the performance of primary medical services by a direction of the Tribunal made pursuant to section 32A(2) (applications for interim suspension) or section 32B(1) (suspension pending appeal) of the Act or suspended under any provisions in force in England, Wales or Northern Ireland corresponding (whether or not exactly) to those provisions;**]**

[F42]…

[[F7]"Tribunal" means the NHS Tribunal constituted in accordance with section 29 of, and Schedule 8 to, the Act;**]**

[F4]…

[[F43]"vocational training scheme" means postgraduate medical education and training necessary for the award of a CCT in general practice;**]**

"writing" includes, except in regulation 6(1), transmission by electronic means and "written" shall be construed accordingly.

F2 Words in reg. 2 omitted (1.4.2007) by virtue of The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2007 (S.S.I. 2007/207), regs. 1, **2(2)(a)**

F3 S.I. 2002/3135.

F4 Words in reg. 2 omitted (1.4.2010) by virtue of The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234), art. 1(4), **Sch. 3 para. 7(2)(a)**; S.I. 2010/478, art. 2(c)

F5 Words in reg. 2 omitted (1.4.2011) by virtue of The National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Scotland) Regulations 2011 (S.S.I. 2011/55), reg. 1, **sch. para. 3(2)**

F6 2004 asp 1.

F7 Words in reg. 2 inserted (21.12.2011) by The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/392), regs. 1, **2(2)(a)** (with reg. 3)

F8 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, Part 1, paragraph 61.

F9 Section 9 was amended by the National Health Service and Community Care Act 1990 (c. 19), section 29(5) and the Health Act 1999 (c. 8), Schedule 4, paragraph 43.

F10 Words in reg. 2 substituted (1.4.2010) by The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234), art. 1(4), **Sch. 3 para. 7(2)(b)**; S.I. 2010/478, art. 2(c)

F11 Words in reg. 2 substituted (1.4.2010) by The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234), art. 1(4), **Sch. 3 para. 7(2)(c)**; S.I. 2010/478, art. 2(c)

F12 Words in reg. 2 substituted (1.4.2010) by The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234), art. 1(4), **Sch. 3 para. 7(2)(d)**; S.I. 2010/478, art. 2(c)

F13 Words in reg. 2 omitted (3.12.2007) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), **regs. 1(2)**, 67

F14 Words in reg. 2 omitted (21.12.2011) by virtue of The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/392), regs. 1, **2(2)(b)** (with reg. 3)

F15 Section 29C(1) was inserted by the Health Act 1999 (c. 8), section 58.

F16 Words in reg. 2 inserted (1.4.2007) by The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2007 (S.S.I. 2007/207), regs. 1, **2(2)(c)**

F17 Words in reg. 2 inserted (1.4.2006) by The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/136), regs. 1, **2(2)(a)**

F18 Words in reg. 2 omitted (1.4.2006) by virtue of The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/136), regs. 1, **2(2)(b)**

F19 Words in reg. 2 substituted (1.7.2013) by The European Union (Amendments in respect of the Accession of Croatia) (Scotland) Regulations 2013 (S.S.I. 2013/177), reg. 1(1), **sch. para. 15**

F20 Words in reg. 2 inserted (1.4.2013) by The National Treatment Agency (Abolition) and the Health and Social Care Act 2012 (Consequential, Transitional and Saving Provisions) Order 2013 (S.I. 2013/235), art. 1(2), **Sch. 2 para. 69**