SCOTTISH STATUTORY INSTRUMENTS

2003 No. 64

NATIONAL HEALTH SERVICE

The National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003

Made - - - - 5th February 2003
Laid before the Scottish Parliament - - - - 6th February 2003
Coming into force in accordance with regulations 1(1) and (2)

The Scottish Ministers, in exercise of the powers conferred by sections 19, 24B, 24C(2) and 105(7) 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 extent

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003 and, subject to paragraph (2), come into force on 28th February 2003.

(2) Regulation 15(b) will come into force on 1st August 2003.

(3) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations, unless the context otherwise requires–

"the 1995 Regulations" means the National Health Service (General Medical Services) (Scotland) Regulations 1995(**2**);

"the Agency" means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;

(**1**) 1978 c. 29. Section 19 was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) ("the 1983 Act"), Schedule 7, paragraph 2, the Medical Act 1983 (c. 54) Schedule 5, paragraph 17(c) and the National Health Service and Community Care Act 1990 (c. 19), section 37 and is to be read with the Health and Medicines Act 1988 (c. 49) section 17; section 24B and 24C(2) was inserted by section 18(2) of the Community Care and Health (Scotland) Act 2002 (asp 5); section 105(7) was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9 paragraph 24; section 108(1) defines "prescribed" and "regulations".

(**2**) S.I.1995/416; amended by S.I. 1995/3199, 1996/842, 1504, 1997/943, 1473, 1998/4, 660, 1600, 1667, 1999/749, 1057, and 1999/1620 and by S.S.I. 2000/28, 153 and 2003/11.

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

"Area Medical Committee" means the committee of that name recognised under section 9 of the Act in whose area services under these Regulations are provided;

"Area Pharmaceutical Committee" means the committee of that name recognised under section 9 of the Act in whose area service under these Regulations are provided;

"Board" means a Health Board or a National Health Service trust having functions under section 19(1) of the Act;

"child health surveillance services" means the medical services set out in Schedule 3 to the 1995 Regulations;

"contraceptive services" means–

(i) the giving of advice to women on contraception,

(ii) the medical examination of such women,

(iii) the contraceptive treatment of such women, and

(iv) the supply to such women of contraceptive substances and appliances;

"Drug Tariff" has the meaning assigned to it in regulation 9 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**3**);

"EEA state" means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(**4**) as adjusted by the Protocol signed at Brussels on 17th March 1993(**5**);

"GP Registrar" means a doctor who is being trained in general practice by a doctor whose name is included in a medical list;

"maternity medical services" has the meaning assigned to it by regulation 2(1) of the 1995 Regulations;

"medical practitioner" means a registered medical practitioner;

"Medical Register" shall be construed in accordance with section 34 of the Medical Act 1983(**6**);

"minor surgery services" has the meaning assigned to it by regulation 2(1) of the 1995 Regulations;

"nationally disqualified" means disqualified for inclusion in all lists by the Tribunal in accordance with section 29(3) of the Act or in accordance with any corresponding provisions in force in England, Wales or Northern Ireland;

"nurse prescriber" has the meaning assigned to it by regulation 1(1A) of the 1995 Regulations;

"pharmacist" means a registered pharmacist within the meaning of the Medicines Act 1968(**7**) who provides pharmaceutical services, or a person lawfully conducting a retail pharmacy business in accordance with section 69 of that Act who provides such services;

"principal" means the medical practitioner, who is assisted in the provision of general medical services by a person whose name is included in a supplementary list;

"relevant service" means whole time service in the armed forces of the Crown in a national emergency, as a volunteer or otherwise, or 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;

(**3**) S.I. 1995/414.
(**4**) Command Paper 2073 and O.J. No. L 1, 3.1.1994, p.3.
(**5**) Command Paper 2183 and O.J. No. L 3, 1 1994, p.572.
(**6**) 1983 c. 54.
(**7**) 1968 c. 67.

"scheduled drug" means a drug or other substance specified in Schedule 10 or, except where the conditions specified in paragraph 10(2) of Schedule 1 to these Regulations are satisfied, Schedule 11 to the 1995 Regulations;

"suspended" means suspended as respects the provision of general medical services by a direction of the Tribunal made pursuant to section 32A(2) or 32B(1) of the Act or under or by virtue of any provisions corresponding thereto in England, Wales or Northern Ireland;

"Tribunal" means the Tribunal constituted under section 29 of the Act.

Supplementary lists

3. A medical practitioner whose name is included in a supplementary list shall comply with the terms and conditions for inclusion in a supplementary list set out in Schedule 1 to these Regulations.

Contents of supplementary lists

4.—(1) Each Board shall prepare a supplementary list of all medical practitioners approved by it to assist in the provision of general medical services which it has arranged in accordance with section 19(1) of the Act.

(2) A medical practitioner's name may be included in a supplementary list for the purpose of assisting in the provision of general medical services which may include either or both of the following:–

(a) child health surveillance services;

(b) minor surgery services.

(3) A supplementary list shall contain–

(a) the name and professional registration number in the Medical Register of each medical practitioner approved;

(b) if appropriate, the services set out in paragraph (2)(a) or (b) which each such medical practitioner will provide; and

(c) provided that the medical practitioner consents to its inclusion, the practitioner's date of birth or, if there is no consent, the date of first full registration as a medical practitioner (whether pursuant to the Medical Act 1983 or otherwise).

Amendment of or withdrawal from supplementary list

5.—(1) A medical practitioner shall, unless it is impracticable to do so, give notice to the Board within 30 days of any occurrence requiring a change in the information recorded in the supplementary list.

(2) A medical practitioner shall, unless it is impracticable to do so, give notice in writing to the Board at least 90 days in advance of any date on which the practitioner intends either–

(a) to withdraw from the supplementary list; or

(b) to cease to assist in providing child health surveillance services, or minor surgery services.

(3) Subject to paragraph (5) the Board shall–

(a) on receiving notice from any practitioner pursuant to paragraph (1), so amend the supplementary list; and

(b) in the case of a notice pursuant to paragraph (2), so amend the supplementary list, either–

(i) on the date which falls 90 days after the date of the notice or, if later, the date with effect from which the practitioner has indicated in the notice pursuant to paragraph (2) of withdrawal; or

(ii) on the date from which the Board has agreed that the withdrawal or cessation shall take effect,

whichever is the earlier.

(4) Any notice pursuant to paragraph (2) may not be withdrawn except with the consent of the Board.

Removal from supplementary list of names of medical practitioners not providing services

6.—(1) Where a Board, with a view to securing that arrangements are such that all persons in the area who avail themselves of general medical services receive adequate personal care and attendance, has determined in accordance with the provisions of this regulation that a medical practitioner whose name is included in a supplementary list has for the preceding 12 months not assisted in the provision of general medical services personally for persons in the area, it may, after giving 30 days' notice in writing of its intention to do so, remove the practitioner's name from such list, unless the Scottish Ministers direct to the contrary, in accordance with the following provisions.

(2) In calculating the period of 12 months referred to in paragraph (1) the Board shall disregard any period during which the medical practitioner was suspended

(3) If in the case of a medical practitioner whose name is included in the supplementary list–

(a) a Board has determined that the practitioner has not for the preceding 12 months assisted in the provision of general medical services personally for persons in the area, and

(b) section 19(7) (which deals with suspension of the registration of a doctor) of the Act applies,

the Board may after giving the medical practitioner 30 days' notice in writing of its intention to do so, remove his name from the supplementary list, unless the Scottish Ministers direct to the contrary, in accordance with the following provisions.

(4) Before making any determination under paragraphs (1) or (3) the Board shall afford the medical practitioner an opportunity to make representations to it in writing or, if requested, orally, to a committee appointed by the Board for the purpose, of which committee at least one-third of the members shall be medical practitioners.

(5) A medical practitioner to whom notice has been given under paragraphs (1) or (3) may within 21 days of receiving such notice appeal to the Scottish Ministers against the decision of the Board and, pending the decision on any such appeal, the Board shall not remove the practitioner's name from the list by reason of the determination against which appeal has been so lodged. The notice of appeal shall be in writing and shall set out the facts and contentions on which the practitioner intends to rely. If the Scottish Ministers allow the appeal, they shall direct the Board not to remove the name of the practitioner from the list by reason of the determination appealed against.

(6) Nothing in this regulation shall affect a medical practitioner who is performing a period of relevant service and no determination under this regulation shall be made in respect of any such doctor until 6 months after he has completed the said relevant service.

Removal from supplementary list on grounds of death etc.

7. Where a Board determines that a medical practitioner whose name has been included in a supplementary list–

(a) has died;

(b) is no longer a medical practitioner;

(c) is the subject of a direction given by the Professional Conduct Committee under section 36 of the Medical Act 1983 (erasure of name from the register or suspension of registration)

or of an order made by that Committee under section 38(1) of that Act (immediate suspension);

(d) has been convicted in the United Kingdom of murder; or

(e) has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months,

it shall remove the practitioner's name from the supplementary list with effect from the date of its determination or, in the case of (c) above, the date on which the direction or order takes effect, if that date is later than the date of the Board's determination.

Application for inclusion in supplementary list

8.—(1) Application by a medical practitioner for inclusion in a supplementary list shall be made to the appropriate Board in writing and shall include the information and undertakings specified in Schedule 2 to these Regulations.

(2) An application under this regulation by a medical practitioner who is a national of an EEA state shall be accompanied by evidence that the doctor has a knowledge of English which, in the interests of himself and his patients, is necessary for assisting in the provision of general medical services.

(3) A medical practitioner may apply to be approved to assist in the provision of child health surveillance services or minor surgery services at the same time as the practitioner applies for inclusion in the supplementary list.

(4) Where paragraph (3) applies the applicant shall provide–

(a) details of medical experience and qualifications relevant to any such services after first date of registration; and

(b) where practicable, at least one reference relative to such experience in relation to any such services.

(5) A Board shall consider and determine an application to assist in the provision of any such services at the same time as it considers and determines an application under paragraph (1) and shall give reasons for its determination.

Consideration of applications

9.—(1) Before determining an application in accordance with this regulation, a Board shall check, so far as practicable, the information provided by the applicant and any relevant documents.

(2) A Board shall refuse to include the name of an applicant in its supplementary list if–

(a) it is not satisfied that the applicant either is suitably experienced within the meaning of section 21 of the Act or is a GP Registrar;

(b) it is not satisfied that he has the knowledge of English which, in the applicant's own interests and those of patients, is necessary for assistance in the provision of general medical services;

(c) the applicant has been convicted in the United Kingdom of murder;

(d) the applicant has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months;

(e) the applicant has been nationally disqualified; or

(f) having contacted referees provided by the applicant, it is not satisfied with the references.