SCOTTISH STATUTORY INSTRUMENTS

1999 No. 53

NATIONAL HEALTH SERVICE

The National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1999

Made - - - -	*7th September 1999*
Laid before the Scottish Parliament - - - -	*10th September 1999*
Coming into force - -	*1st October 1999*

The Scottish Ministers, in exercise of the powers conferred on them by sections 19(2), 25(2), 26(2), 27(2), 29(1) and (6), 32, 105(7), 106(a) and 108(1) of, and paragraph 7 of Schedule 8 to the National Health Service (Scotland) Act 1978(**1**), and sections 39(1) and 40(2) of, and paragraphs 3(4) and (5) of Schedule 1 to, the National Health Service (Primary Care) Act 1997(**2**) and of all other powers enabling them in that behalf, and after consultation with the Scottish Committee of the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(**3**) 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 1999 and shall come into force on 1st October 1999.

(2) In these Regulations "the principal Regulations" means the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**4**).

(**1**) 1978 c. 29; section 19(2) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) ("the 1983 Act"), Schedule 7, paragraph 2, and was extended by the Health and Medicines Act 1988 (c. 49) ("the 1988 Act"), section 17; section 25(2) was extended by the 1988 Act, section 17 and 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(6); section 26(2) was amended by the Health and Social Security Act 1984 (c. 48), Schedule I, Part II, paragraphs 2, 3 and 4 and Schedule 8, Part I and was extended by the 1988 Act, section 17; section 27(2) was amended by the National Health Service (Amendment) Act 1986 (c. 66), section 3(3) and by the 1990 Act, Schedule 9, paragraph 19(7)(b) and was extended by the 1988 Act, section 17; section 32 was amended by the National Health Service (Amendment) Act 1995 (c. 31) ("the 1995 Act"), Schedule; 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, by the 1983 Act, Schedule 9, paragraph 24 and by 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**) 1997 c. 46.

(**3**) 1992 c. 53.

(**4**) S.I.1992/434, amended by S.I.1994/3038, 1995/3201, 1996/938, 1998/657 and 1424.

General amendment of the principal Regulations

2. In regulations 8, 10, 11, 17, 18, 19, 21, 26, 29, 30, 34, 35, 37, 38, 41, and 44 of the principal Regulations after the words "Health Board" in each place where they occur there is inserted "or primary care NHS trust".

Amendment of regulation 1 of the principal Regulations

3.—(1) Regulation 1 of the principal Regulations (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (2)–

(i) after the definition of "the Act" there is inserted–

> ""the Agency" means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;"(**5**);

(ii) in each of the definitions of "dental officer", "General Manager", "lay person", "list of professional persons" and "statement of case", and in paragraph (a) of the definition of "lay member", after the words "Health Board" in each place where they occur there is inserted "or primary care NHS trust";

(iii) for the definition of "doctor" there is substituted–

> ""doctor" means a fully registered medical practitioner including an ophthalmic medical practitioner;";

(iv) in the definition of "lay member" for the words "service committee" there is substituted "discipline committee";

(v) after the definition of "ophthalmic medical practitioner" there is inserted–

> ""ophthalmic officer" means an ophthalmic medical practitioner, ophthalmic optician or ophthalmologist in the service of the Agency;";

(vi) after the definition of "practitioner"(**6**) there is inserted–

> ""primary care NHS trust" means an NHS trust to which certain functions referred to in section 12AA of the Act are delegated by the Board"(**7**).

(3) In paragraph (4), for "paragraph (1)" there is substituted "paragraph (2)".

Amendment of regulation 2 of the principal Regulations

4. In regulation 2 of the principal Regulations (establishment of committees)(**8**), in paragraph (4) after the words "Health Board" in each place where they occur there is inserted "or primary care NHS trust".

Amendment of regulation 3 of the principal Regulations

5. In regulation 3 of the principal Regulations (provisions relating to the start of disciplinary proceedings)(**9**), in paragraphs (1), (3), (4), (5) and (7) after the words "Health Board" in each place where they occur there is inserted "or primary care NHS trust".

(**5**) Section 10 was amended by the Health Act 1999 (c. 8), Schedule 4, paragraph 44.
(**6**) The definition of "practitioner" was substituted by S.I.1998/1424.
(**7**) Section 12AA was inserted into the National Health Service (Scotland) Act 1978 (c. 29) by the Health Act 1999 (c. 8), section 47
(**8**) Regulation 2 was substituted by S.I.1996/938.
(**9**) Regulation 3 was substituted by S.I.1996/938.

Amendment of regulation 4 of the principal Regulations

6. In regulation 4 of the principal Regulations (referral to discipline committee)(**10**)–

(a) in paragraph (1) after the words "Health Board" in the first place where they occur there is inserted "or primary care NHS trust";

(b) in paragraph (2)–

(i) after the words "Health Board" in the first place where they occur there is inserted "or primary care NHS trust"; and

(ii) after the words "Health Board" in the third place where they occur there is inserted "which has delegated functions to the primary care NHS trust".

Amendment of regulation 5 of the principal Regulations

7. In regulation 5 of the principal Regulations (time limits)(**11**)–

(a) in paragraphs (1), (2), (3)(b)(ii), 3(b)(iii) and (4) after the words "Health Board" in each place where they occur there is inserted "or primary care NHS trust";

(b) in paragraph (3)(a) the words ", ophthalmic medical practitioner, optician" are omitted;

(c) after paragraph (3)(a) there is inserted–

"(aa) in the case of an ophthalmic medical practitioner or optician, 13 weeks after the event or matter or after the latest in a series of events or matters which are the subject of the allegation.".

(d) in paragraph (4) for the words "Where the Board" there is substituted "Where the Practice Board".

Amendment of regulation 6 of the principal Regulations

8. In regulation 6 of the principal Regulations (investigations by discipline committees)(**12**), in paragraph (3) after the words "Health Board" there is inserted "or primary care NHS trust".

Amendment of regulation 7 of the principal Regulations

9. In regulation 7 of the principal Regulations (determination of appropriate Health Board)(**13**)–

(a) in the heading after the words "Health Board" there is inserted "or primary care NHS trust";

(b) in paragraphs (1), (2), (3), (4), (5), (7), (8), (9) and (10) after the words "Health Board" in each place where they occur and in paragraph (6) after those words in the first place where they occur there is inserted "or primary care NHS trust".

Amendment of regulation 9 of the principal Regulations

10. In regulation 9 of the principal Regulations (procedure on appeal)(**14**) after the words "Health Board" in each place where they occur and in paragraph (2) after the words "that Board" there is inserted "or primary care NHS trust".

(**10**) Regulation 4 was substituted by S.I.1996/938.
(**11**) Regulation 5 was substituted by S.I.1996/938.
(**12**) Regulation 6 was substituted by S.I.1996/938.
(**13**) Regulation 7 was substituted by S.I.1996/938.
(**14**) Regulation 9 was substituted by S.I.1996/938.