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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 72**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Personal  
Medical Services) (Scotland) Regulations 2001**

<i>Made</i>	- - - -	<i>8th March 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th March 2001</i>
<i>Coming into force</i>	- -	<i>1st April 2001</i>

The Scottish Ministers, in exercise of the powers conferred by sections 17E, 24A, 105(7) 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 I**  
**GENERAL**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Personal Medical Services) (Scotland) Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations, unless the context otherwise requires—

“the 1978 Act” means the National Health Service (Scotland) Act 1978;

“an agreement” means an agreement made between a Health Board and a provider pursuant to section 17C of the 1978 Act under which personal medical services are provided;

“approved medical practice” means a medical practice approved for the purpose of section 10(2) of the Medical Act 1983(2);

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- (1) 1978 c. 29. Section 17E was inserted by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), section 22(2); section 17F was inserted by the 1997 Act, section 23(2); section 24A was inserted by the 1997 Act, section 25(2); 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 Health and Social Services and Social Security Adjudications Act 1983 (c. 41), 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) 1983 c. 54. Section 10 was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 35(2).

“child health surveillance services” means personal medical services which comprise—

- (a) the monitoring—
  - (i) by the consideration of information concerning the child received by or on behalf of the performer; and
  - (ii) on any occasion when the child is examined or observed by or on behalf of the performer,
    - of the health, well-being and physical, mental and social development of the child while under the age of 5 years with a view to detecting any deviations from normal development;
- (b) the examination of the child by or on behalf of the performer on so many occasions and at such intervals as shall be determined by the Health Board in whose area the child resides for the purposes of the provision of child health surveillance services generally;

“the Choice of Medical Practitioner Regulations” means the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(3);

“contraceptive services” means—

- (a) the giving of advice to women on contraception;
- (b) the medical examination of women seeking such advice;
- (c) the contraceptive treatment of such women; and
- (d) the supply to such women of contraceptive substances and appliances;

“General Practice (GP) Registrar” has the meaning assigned to it in regulation 2(1) of the GMS Regulations 1995(4);

“the GMS Regulations” means the National Health Service (General Medical Services) (Scotland) Regulations 1995(5);

“maternity medical services” means the provision of personal medical services which comprise—

- (a) the provision of personal medical services to a woman during the ante natal period;
- (b) the provision of personal medical services to a woman during labour;
- (c) the provisions of personal medical services to a woman and to her baby, where the pregnancy has resulted in the birth of a live baby, including the provision of all necessary personal medical services to that baby during the period of 14 days following its birth, unless, during that period, another medical practitioner has accepted the baby for inclusion in that practitioner’s list pursuant to an application made on the baby’s behalf under regulation 2 of the Choice of Medical Practitioner Regulations, during the post-natal period; and
- (d) the provision of a full post-natal examination;

“minor surgery services” means the personal medical services described in Schedule 5;

“Part II Practitioner” means a medical practitioner who provides general medical services;

“performer” means any registered medical practitioner (including the provider) who performs personal medical services provided under an agreement;

“performer’s list” means a list of persons who have been accepted by or assigned to a performer under the Choice of Medical Practitioner Regulations;

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(3) S.I.1998/659, amended by S.I. 2000/191 and 2001/ .

(4) S.I. 1995/416. The definition of “General Practice (GP) Registrar” was substituted for that of a “trainee general practitioner” by S.I. 1998/4.

(5) 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 1620 and by S.S.I. 1999/54, 2000/28 and 190.

“pooled list” means a list of persons who have been accepted by a provider for the provision of personal medical services, and who are not included in a performer’s list;

“provider” means any person or body with whom a Health Board enters into an agreement;

“Scheduled drug” has the meaning given in regulation 2(1) of the GMS Regulations;

“the Tribunal” means the Tribunal constituted under section 29 of the 1978 Act.

(3) In these Regulations unless the context otherwise requires, a reference to a regulation or Schedule is to a regulation of, or a Schedule to, these Regulations and a reference to a paragraph is to a paragraph of the regulation in which the reference is made.

## PART II

### AGREEMENTS

#### **Entering into an agreement**

2. An agreement may be entered into only where it complies with the terms of Schedules 1 and 4.

#### **No undue compromise**

3. No agreement shall be entered into where that would unduly compromise—

(a) the right of any person in the Health Board’s area to choose the medical practitioner from whom that person is to receive medical services; or

(b) the scope of the Health Board to require a person to be assigned to a performer’s list,

having regard to the need of the Health Board to ensure that the number of performers who are primarily responsible for the performance of personal medical services is such that neither the right nor the scope is unduly compromised.

#### **Withdrawal from an agreement**

4. Any provider may withdraw from an agreement by giving the Health Board not less than 3 months notice in writing of their intention to withdraw.

#### **Variation of an agreement**

5. A Health Board and provider who have entered into an agreement may, after following such procedure as may be set out in the agreement, vary it by a further agreement in writing.

#### **Publication of Details of an Agreement**

6. A provider shall display at every premises from which personal medical services are provided by the provider a notice containing the information set out in Schedule 2.

## PART III

### PERFORMANCE OF PERSONAL MEDICAL SERVICES

#### Performance of personal medical services by medical practitioners

7.—(1) A Health Board shall not make an agreement under which a registered medical practitioner will perform personal medical services unless the Health Board would, if the registered medical practitioner had intended to provide general medical services instead, be able to enter into arrangements with that practitioner under section 19(1) of the 1978 Act.

(2) No medical practitioner shall perform personal medical services where that medical practitioner—

- (a) is disqualified by direction of the Tribunal;
- (b) is suspended by direction of the Tribunal;
- (c) is disqualified or suspended under provisions, corresponding to sections 29(3), 32A(2) or 32B(1) of the 1978 Act, in force in England and Wales or Northern Ireland;
- (d) is no longer a registered medical practitioner;
- (e) 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)(6) or of an order made by that Committee under section 38(1) of that Act (immediate suspension);
- (f) has been convicted in the United Kingdom of murder; or
- (g) has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months.

(3) Where, a medical practitioner who falls within paragraph (2) performs personal medical services, the agreement under which those services are provided shall terminate forthwith.

(4) Schedule 3 applies to the performance of personal medical services by a medical practitioner under an agreement.

#### Child health surveillance services and minor surgery services

8.—(1) Where the personal medical services which are to be provided under an agreement include child health surveillance services those services may only be provided by a performer who has satisfied the Health Board that that performer has such medical experience and training as are necessary to perform such services.

(2) In satisfying itself for the purposes of a performer in paragraph (1), a Health Board shall, in particular, have regard to—

- (a) any post-graduate qualification held by the performer; and
- (b) any training undertaken and any medical experience gained by the performer during the period of five years immediately preceding the date on which the performer will start to perform child health surveillance services under the agreement,

which is relevant to the provision of child health surveillance services, and shall seek and take into account any medical advice it considers necessary to enable it to so satisfy itself.

(3) Subject to paragraph (5), where the personal medical services which are to be provided under an agreement include minor surgery services those services may only be provided by a performer

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(6) 1983 c. 54.

who has satisfied the Health Board that that performer has such medical experience and training as are necessary to perform such services.

(4) In satisfying itself for the purposes of a performer in paragraph (3), a Health Board shall, in particular, have regard to—

- (a) any post-graduate qualification held by the performer; and
- (b) any training undertaken and any medical experience gained by the performer during the period of five years immediately preceding the date on which the performer will start to perform minor surgery services under the agreement,

which is relevant to the provision of minor surgery services, and shall seek to take into account any medical advice it considers necessary to enable it to so satisfy itself.

(5) Where a performer has satisfied the Health Board for the purposes of paragraph (3), the performer shall not perform minor surgery services unless the performer has also satisfied the Health Board that the premises and equipment to be used by the performer are suitable for the performance of minor surgery services.

(6) A Health Board shall be deemed not to be satisfied for the purposes of paragraphs (1), (3) and (5) unless a letter of satisfaction signed by an authorised officer of the Health Board is sent to the performer.

## PART IV

### PATIENT LISTS

#### **Lists of patients**

**9.—**(1) A Health Board which enters into an agreement shall prepare and keep up to date a list of patients who receive personal medical services and that list shall be made up of—

- (a) a performer’s list in respect of each performer who is, under an agreement, to have such a list; and
- (b) if, in accordance with an agreement, there is to be a pooled list, that list.

(2) Where a person is accepted by a performer for inclusion in the performer’s list or, as the case may be, by a provider for inclusion in a pooled list, the Health Board shall include that person in the list of patients who receive personal medical services from the date on which it receives notification of acceptance from the performer or, as the case may be, the provider.

#### **Removal from a list of patients who receive personal medical services**

**10.—**(1) A person whose name is included in a performer’s list or in a pooled list and who no longer wishes to receive personal medical services may at any time give notice to the Health Board that that person wishes to have their name removed from that list, and at the expiration of 14 days from the date of receipt of the notice, the Health Board shall remove the name and inform the person and the performer or, as the case may be, the provider.

(2) Where, in regard to a person whose name is included in a performer’s list or a pooled list, the Health Board after due enquiry including consultation in writing with the performer or, as the case may be, the provider is satisfied, either—

- (a) that the person no longer resides in that part of the area of the Health Board where personal medical services are provided by the provider; or
- (b) that the whereabouts of the person are no longer known to the Health Board,

and that the performer or, as the case may be, the provider is no longer responsible for providing that person with personal medical services, the Health Board shall remove the name of that person from the performer's list or, as the case may be, the pooled list.

(3) Where, in accordance with the terms of an agreement, a provider notifies the Health Board in writing that the provider wishes to have any person removed from the performer's list or the pooled list the Health Board shall, subject to paragraph (5), remove that person on the earlier of—

- (a) the date on which the person is accepted by or assigned to a registered medical practitioner under the Choice of Medical Practitioner Regulations, or is accepted for inclusion in a pooled list (where the list of the registered medical practitioner or, as the case may be, the pooled list, does not form part of the list of patients in which the person was included immediately before acceptance or assignment); or
- (b) the end of the period of eight days beginning with the day on which the Health Board receives the notification.

(4) Where, at the date on which removal would take effect under paragraph (3), a performer is treating the person at intervals of less than seven days, the Health Board shall remove that person on the earlier of—

- (a) the date on which the person is accepted by or assigned to a registered medical practitioner under the Choice of Medical Practitioners Regulations, or is accepted for inclusion in a pooled list (where the list of the registered medical practitioner or, as the case may be, the pooled list, does not form part of the list of patients in which the person was included immediately before acceptance or assignment); or
- (b) the end of the period of eight days beginning with the day on which the Health Board receives notification from the provider that the person no longer needs such treatment.

(5) Where, in the case of violence or threatened violence against a performer by a person whose name is included in a performer's list or a pooled list, which the performer has reported to the police or the Procurator Fiscal, the provider notifies the Health Board, in accordance with the terms of an agreement that the provider wishes to have the name of the person removed from the performer's list or, as the case may be, the pooled list with immediate effect, the Health Board shall remove the person on receipt of that notification and inform the person, the provider and the performer.

(6) Where a person on a performer's list or a pooled list—

- (a) dies; or
- (b) is absent from the United Kingdom for a period of more than 90 days; or
- (c) leaves the United Kingdom with the intention of being away for a period of more than 90 days; or
- (d) enlists in Her Majesty's Forces; or
- (e) is serving a prison sentence or sentences totalling in aggregate more than two years,

that person's name shall be deleted from the list as from the date on which the Health Board first received notification of the death, absence, departure, enlistment or imprisonment.

### **Transfer of patients from lists**

**11.**—(1) This regulation applies to the transfer of a person from a performer's list or a pooled list to—

- (a) the list of a Part II practitioner; or
- (b) a performer's list; or
- (c) a pooled list,

where, in the case of sub-paragraphs (b) and (c), the list to which the patient transfers does not form part of the list in which that person was included immediately before transfer.

- (2) Subject to paragraph (3), the Health Board shall give effect to the transfer—
- (a) on the date on which it receives notification of the acceptance of the person by the medical practitioner to whose list the patient has transferred or, in the case of a transfer to a pooled list, by the provider; or
  - (b) subject to the consent of the Health Board, from such date, not being earlier than the date of that consent, as may be agreed between the performer or, in the case of a pooled list, the provider from whose list the person has transferred and the registered medical practitioner, or as the case may be, the provider who has accepted the person.

(3) Paragraph (2) shall not apply to the transfer of a person in accordance with the Choice of Medical Practitioner Regulations, to a performer's list where the performer is successor to a performer from whose performer's list the person has transferred.

(4) The Health Board shall, within 14 days of transfer, notify the person transferred, and the performer or, in the case of a pooled list, the provider from whose list the person has transferred and the Part II practitioner, the performer or, in the case of a pooled list, the provider, to whose list the person has transferred, of the transfer.

## PART V

### MISCELLANEOUS

#### **Parties treated as health service bodies**

**12.**—(1) In the case of an agreement entered into, or to be entered into, by any person or body, that person or body may make an application in accordance with this regulation to become a health service body for the purposes of section 17A of the 1978 Act.

(2) An application under paragraph (1) shall be made in writing to the Scottish Ministers and shall include the name and address of each applicant.

(3) A copy of such application shall be sent by the applicant to the Health Board with which an agreement has been entered into or is to be entered into.

(4) If an application is granted the Scottish Ministers must specify when it is to come into effect and, as from that time, the applicant shall be a health service body for the purposes of section 17A of the 1978 Act.

(5) The grant of an application does not affect the nature of, or any rights or liabilities arising under, any contract entered into by an applicant before the date on which the application comes into effect.

(6) The person or body to whom the status of health service body has been granted shall cease to be a health service body—

- (a) upon withdrawal from an agreement pursuant to regulation 4; or
- (b) upon termination of an agreement; or
- (c) upon that person or body giving notice in writing to the Scottish Ministers and to the Health Board with which an agreement has been entered into or is to be entered into that they have decided to cease to be a health service body.

### **Enforcement of directions as to payments**

**13.** Any directions, as to payments, made under section 17A(8) of the 1978 Act shall be enforceable in like manner as extract registered decrees arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

### **Financial Assistance**

**14.**—(1) A Health Board may make payments of financial assistance for preparatory work undertaken—

- (a) in connection with preparing proposals for arrangements under section 17C of the 1978 Act under which personal medical services are to be provided; or
- (b) in preparation for the provision of personal medical services under arrangements made under section 17C of the 1978 Act.

(2) Such payments may be made only following receipt by the Health Board of a written application from one or more of the following:—

- (a) an NHS trust;
- (b) a suitably experienced medical practitioner;
- (c) an individual who is providing personal medical services in accordance with arrangements made under section 17C of the 1978 Act or section 28C of the National Health Service Act 1977(7);
- (d) an NHS employee;
- (e) a qualifying body,

and shall be made to the applicant.

(3) An application for financial assistance shall specify—

- (a) the purposes for which the applicant intends to use the payment of financial assistance for which the applicant has applied; and
- (b) in the case of an application from a person falling within (2)(b) or (c) above, in connection with preparing proposals for arrangements under section 17C of the 1978 Act, whether those proposals have the support of an NHS trust or a qualifying body and, if so, the identity of that NHS trust or qualifying body;
- (c) whether, in connection with preparing proposals for arrangements under section 17C of the 1978 Act, the applicant has consulted with
  - (i) the Area Medical Committee;
  - (ii) the Local Health Council;
  - (iii) the local authority; and
  - (iv) any other body representative of any group which is likely to be affected,
 and, if so, what observations have been made by them in respect of the proposals.

### **Conditions in respect of financial assistance**

**15.**—(1) A Health Board which makes payment of financial assistance to any person under these Regulations shall, on making that payment, require that person—

- (a) to use the payment only for the preparatory work specified in their application and, to the extent that it is unused on the relevant date, to return it to the authority; and



- (b) before the end of the period of four months beginning with the relevant date, to provide such information in writing to the Health Board about the uses to which the payment has been put as the Health Board may reasonably require,

and a person receiving such a payment shall comply with any conditions which the Health Board may impose in writing in connection with those requirements.

(2) A person to whom a payment of financial assistance is made who fails to comply with any of the conditions imposed by the Health Board shall, on demand by the Health Board repay the amount of the payment to the Health Board forthwith.

(3) In this regulation “the relevant date” means—

- (a) in relation to preparing proposals under regulation 14(1)(a), the date on which those proposals are submitted to the Health Board; or
- (b) in relation to preparation for arrangements under regulation 14(1)(b), the date on which the agreement is entered into.

### **Liability of performers who provide general medical services and Part II practitioners who perform personal medical services**

16.—(1) A performer, who provides general medical services as a deputy to a Part II practitioner, shall be responsible for any act or omission on the part of the performer, which would have been contrary to the terms of service contained in Schedule 1 to the GMS Regulations or (as the case may be) Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(8), and that act or omission shall be treated as if it were a breach of those terms of service.

(2) A Part II practitioner, who performs personal medical services as a deputy to a performer, shall be responsible for any act or omission on the part of the Part II practitioner, which both gives rise to a breach of an agreement and would, if the practitioner had been providing general medical services when the act or omission occurred, have been contrary to the terms of service contained in Schedule 1 of the GMS Regulations or (as the case may be) Schedule 1 to the National Health Service (General Medical Services) Regulations 1992, and that act or omission shall be treated as if it were a breach of those terms of service.

St Andrew’s House,  
Edinburgh  
8th March 2001

*SUSAN C DEACON*  
A member of the Scottish Executive

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## SCHEDULE 1

Regulation 2

### AGREEMENTS ARRANGEMENT OF PARAGRAPHS

1. Inclusion of provisions.
2. Patients.
- 3-9. Provision of personal medical services and other services.
10. Provision of drugs or appliances for immediate treatment.
11. Performance of personal medical services.
12. Persons employed or engaged by a provider.
13. Medical practitioners with provisional registration.
- 14-18. Performer's lists and pooled lists.
19. Assignment of patients to performers.
20. Acceptance of patients in a performer's list.
21. Acceptance of patients in a pooled list.
22. Termination of responsibility for patients.
23. Temporary residents.
24. Childhood immunisation.
25. Practice leaflet.
26. Qualifying bodies.
27. Insurance.

#### **Inclusion of provisions**

1. An agreement shall include provisions meeting all of the requirements set out in this Schedule.

#### **Patients**

2. An agreement shall provide that the patients in respect of whom personal medical services are to be provided in accordance with arrangements made under an agreement are—
  - (a) persons included in any performer's list;
  - (b) persons included in a pooled list operated under the agreement;
  - (c) persons accepted for inclusion in a list referred to in sub-paragraphs (a) or (b);
  - (d) for the limited period specified in paragraph 8 of Schedule 3, persons who have been refused acceptance for inclusion in a list referred to in sub-paragraphs (a) or (b) of this paragraph;
  - (e) persons who have been assigned to a performer by a provider under regulation 5 of the Choice of Medical Practitioner Regulations;
  - (f) persons for whom the provider is obliged to provide personal medical services under regulation 5(6) of the Choice of Medical Practitioner Regulations, having been unable to assign them to a performer;

- (g) persons accepted as temporary residents by a performer or the provider under the agreement;
- (h) persons who would be eligible under the agreement for acceptance by a performer or the provider as temporary residents and to whom a performer has agreed to provide an immunisation;
- (i) persons who would be eligible under the agreement for acceptance by a performer or the provider as temporary residents and for whom a performer or the provider has agreed to provide maternity medical services or contraceptive services, or in respect of whom a performer has agreed to take a cervical smear;
- (j) for the limited period specified in paragraph 8 of Schedule 3, persons to whom a performer is required by virtue of sub-paragraphs (b) and (c) of that paragraph to give treatment which is immediately required;
- (k) persons by whom a performer is requested and agrees, in connection with his performance of personal medical services under the agreement, to give treatment which is immediately required owing to an accident or other emergency at any place in the area of the Health Board, provided that—
  - (i) there is no registered medical practitioner who, at the time of the request, is under an obligation (otherwise than by virtue of this paragraph or his terms of service) to give treatment to that person; or
  - (ii) there is such a registered medical practitioner but, after being requested to attend, that practitioner is unable to attend and give treatment immediately required; or
  - (iii) in the case of a performer, more than one such performer is under an obligation to give treatment and no such performer practising from the premises to which the request was made is able to attend and give treatment;
- (l) in respect of child health surveillance services, minor surgery services, contraceptive services or maternity medical services, persons for whom a performer has undertaken to perform such services.

### **Provision of personal medical services and other services**

3. An agreement shall require the provision of personal medical services which are—
  - (a) equivalent in scope (though not necessarily identical in detail) to general medical services; and
  - (b) available to patients throughout each period of 24 hours during which the agreement remains in existence.
4. Sub-paragraph (a) of paragraph 3 is not to be construed as requiring an agreement to include the provision of child health surveillance services, contraceptive services, minor surgery services or, except in an emergency, maternity medical services.
5. Where a provider is to provide child health surveillance services, minor surgery services or both services under an agreement, the Health Board must ensure that the provider is authorised by the agreement to make arrangements for such of those services as are to be provided under the agreement, to be provided to any person who applies for them and who is a personal medical services patient in relation to any other agreement.
6. Where a provider is to provide maternity medical services, contraceptive services or both services under an agreement, the Health Board must ensure that the provider is authorised by the agreement to make arrangements for such of those services as are to be provided under the agreement to be provided to any person who applies for them.

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7. Where an agreement imposes requirements in accordance with paragraph 5 or 6, the agreement shall contain terms as to the arrangements for a person to apply for the provision of such a service, and as to the arrangements under which the provider may terminate his responsibility for the provision of that service.

8. An agreement shall require the provider to take reasonable steps to ensure the continuity of a patient's treatment.

9. An agreement shall provide that unless the provider has the consent of the Health Board, a performer must not perform personal medical services at any premises if he would have required the consent of the Health Board to carry on practice from those premises, if he were providing general medical services.

### **Provision of drugs or appliances for immediate treatment**

10. An agreement shall—

- (a) require the provider to provide to a patient any appliance or drug, not being a Scheduled drug, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and
- (b) allow the provider to provide to a patient any appliance or drug, not being a Scheduled drug, which a performer administers or applies to that patient,

and the services which are provided in accordance with this paragraph must be available to patients throughout each period of 24 hours during which the agreement remains in existence.

### **Performance of personal medical services**

11. An agreement shall—

- (a) require that all performers who are primarily responsible for the performance of personal medical services (and not just a particular aspect of personal medical services) in respect of the patients have a performer's list, whether or not they also participate in arrangements for a pooled list in connection with the agreement;
- (b) name each of the performers who will under the agreement be primarily responsible for the performance of personal medical services, or any particular aspect of personal medical services, in respect of the patients;
- (c) specify in respect of each of the performers who are named in the agreement in accordance with sub-paragraph (b)—
  - (i) the services which that person is to perform under the agreement, including whether that person is to perform child health surveillance services, contraceptive services, minor surgery services or maternity medical services and, if so, which of them;
  - (ii) if that person is not the provider, the nature of that person's legal relationship with the provider; and
  - (iii) whether that person is to have a performer's list and, if so, whether that person is also to participate in any arrangements for a pooled list; and
- (d) specify the circumstances in which personal medical services, or any aspect of personal medical services, will be performed by a person other than a performer who is primarily responsible for the performance of those services.

### **Persons employed or engaged by a provider**

12. An agreement shall require that a provider shall—

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- (a) before employing or engaging any person other than a registered medical practitioner to assist the provider in the provision of personal medical services, take reasonable care to become satisfied that the person in question is both suitably qualified and competent to discharge the duties for which that person is to be employed or engaged, having regard, in particular, to that person's academic and vocational qualifications and training and experience in employment; and
- (b) afford to each employee or person engaged reasonable opportunities to undertake appropriate training with a view to maintaining that person's competence.

### **Medical practitioners with provisional registration**

13. An agreement shall require that the provider shall not, by virtue only of having employed or engaged a person who is provisionally registered under section 15 or 21 of the Medical Act 1983 and who is acting in the course of his employment in an approved medical practice, reduce the total number of hours for which other performers perform personal medical services in connection with the agreement, or for which other staff assist them in the performance of personal medical services.

### **Performer's lists and pooled lists**

14. An agreement shall require the provider to supply to the Health Board such information about the performers as it requires for the purpose of preparing patient's lists and keeping them up to date, in accordance with regulation 9.

15. An agreement shall specify the maximum total number of persons who may be included in the performer's lists of each of the performers or, if a pooled list is to be operated, the maximum total number of persons who may be included in the performer's lists and the pooled list.

16. Where an agreement authorises a pooled list, it shall provide that the provider shall be responsible for accepting a person for inclusion in that list and may do so only if the person is eligible for the provision of personal medical services under the agreement.

17. An agreement shall require the provider to ensure that no person is accepted for inclusion in more than one performer's list, or for inclusion in both a performer's list and a pooled list.

18. The provider shall be required by an agreement to give the Health Board not less than one month's notice of the provider's intention to cease to operate a pooled list.

### **Assignment of patients to performers**

19. An agreement shall require the provider to assign a person to a performer in accordance with regulation 5 of the Choice of Medical Practitioner Regulations if required to do so by the Health Board under regulation 4(2)(b) of those Regulations.

### **Acceptance of patients in a performer's list**

20.—(1) An agreement shall require that where a performer has agreed to accept a person for inclusion in a performer's list, that performer shall, within 14 days of receiving that person's medical card or, as the case may be, form of application, or as soon after the expiry of that period as is practicable—

- (a) sign the medical card or, as the case may be, form of application; and
- (b) send it to the Health Board.

(2) An agreement shall require that where, for the purposes of sub-paragraph (1), any person signs a medical card or form of application on behalf of the performer, the performer shall ensure that the signatory specifies the name of the provider on whose behalf that person is signing.

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### Acceptance of patients in a pooled list

21.—(1) Where an agreement authorises the operation of a pooled list it shall comply with the following provisions of this paragraph.

(2) An agreement shall require the provider to have a procedure under which persons may apply for inclusion in a pooled list, which provides that—

- (a) subject to paragraphs (b) and (c), an application shall be made by delivering to the provider a medical card or an application signed (in either case) by the applicant or a person authorised by the applicant to sign on his behalf;
- (b) an application may be made (otherwise than by the provider or a performer) on behalf of any child by—
  - (i) either parent, or in the absence of both parents, the guardian or other adult person who has the care of the child;
  - (ii) a person duly authorised by a local authority to whose care the child has been committed under the provisions of the Social Work (Scotland) Act 1968<sup>(9)</sup>; or
  - (iii) a person duly authorised by a voluntary organisation by which the child is being accommodated under the provisions of the Social Work (Scotland) Act 1968; and
- (c) an application may be made (otherwise than by the provider or a performer) on behalf of any adult who is incapable of making such an application.

(3) An agreement shall require that where a provider has agreed to accept a person for inclusion in a pooled list, he shall, within 14 days of receiving that person's medical card or, as the case may be, form of application, or as soon after the expiry of that period as is practicable—

- (a) sign the medical card or, as the case may be, the form of application; and
- (b) send it to the Health Board.

(4) An agreement shall require that where, for the purposes of sub-paragraph (3), any person signs a medical card or form of application on behalf of the provider, the provider shall ensure that the signatory specifies the name of the provider on whose behalf that person is signing.

### Termination of responsibility for patients

22. The agreement shall provide that—

- (a) a provider may notify the Health Board in writing that the provider wishes to have any person removed from the list of patients (which, in this paragraph, means the combined performer's lists of all the performers who have such a list and the pooled list, if any) and that removal shall take effect in accordance with regulation 10(3) or, as the case may be, 10(4);
- (b) where—
  - (i) a person whose name is included in the list of patients has committed an act of violence against a performer, or has behaved in such a way that the performer has feared for his safety; and
  - (ii) the performer has reported the incident to the police or the Procurator Fiscal,
 the provider may notify the Health Board that the provider wishes to have that person removed from the list of patients with immediate effect and that removal shall take effect in accordance with regulation 10(5);

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(9) 1968 c. 49.

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- (c) notification under sub-paragraph (b) may be given by any means including telephone or fax, but if not given in writing shall subsequently be confirmed in writing within seven days (and, for this purpose, a faxed notification is not a written one);
- (d) the time at which the provider notifies the Health Board shall be the time at which the provider makes the telephone call to the Health Board or at which the notification is delivered to the Health Board;
- (e) other than in a case to which sub-paragraph (b) applies, where a provider notifies a Health Board that he wishes to have a person removed from the list of patients, the provider shall inform the Board in writing if a performer is treating the person at intervals of less than seven days;
- (f) where a provider has notified a Health Board that the provider wishes to have a person's name removed from the list of patients with immediate effect, the provider shall, in writing, inform the person concerned of that notification.

### **Temporary residents**

**23.** An agreement shall provide that—

- (a) a provider may accept as a temporary resident a person requiring treatment who is—
  - (i) temporarily residing away from their normal place of residence and is not included in the performer's list of a performer who practises in the vicinity of the place where that person is temporarily residing, or a pooled list of medical practitioners who practise in that vicinity; or
  - (ii) moving from place to place and not for the time being resident in any place, and shall notify the Health Board of the treatment provided to any person whom either the provider, or a performer, accepts as a temporary resident, and such other information about that person as the Health Board may reasonably require;
- (b) for the purposes of sub-paragraph (a), a person shall be regarded as temporarily resident in a place if, when that person arrives in that place, that person intends to stay there for more than 24 hours but not more than three months;
- (c) a provider may inform the Health Board in writing that the provider wishes to terminate responsibility for the provision of personal medical services for a temporary resident and, where the provider does so, the provider's responsibility shall cease in accordance with sub-paragraph (a) or, as the case may be, sub-paragraph (b) of paragraph 22, as if the temporary resident were a person on the list of patients as defined in that paragraph.

### **Childhood immunisations**

**24.** An agreement shall provide that payments will be made to the provider in respect of—

- (a) the immunisation by performers of children aged two and under against diphtheria, tetanus, poliomyelitis, pertussis, measles, mumps, rubella and haemophilus influenzae B; and
- (b) the immunisation by performers of children aged five and under against diphtheria, tetanus and poliomyelitis, by way of pre-school boosters,

on the basis of arrangements under which the amounts so paid are, respectively, as nearly as possible equal to the total amount of the payments which would have been made to the performers under paragraphs 25 and 26 of the Statement of Fees and Allowances, if they were partners providing general medical services under Part II of the 1978 Act and the children immunised were patients on their partnership list (within the meaning of those paragraphs).

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### Practice leaflet

**25.**—(1) An agreement shall require a provider to produce a document, in this paragraph called a “practice leaflet”, which shall include the following information—

- (a) in relation to each performer, their—
    - (i) full name;
    - (ii) sex;
    - (iii) medical qualifications; and
    - (iv) date and place of first registration; and
  - (b) in relation to the services—
    - (i) details of the normal hours and the normal place;
    - (ii) details of any appointments system and arrangements for urgent and non-urgent access to a performer either at the normal place or elsewhere;
    - (iii) the arrangements under which a person may receive personal medical services outwith normal hours, including how a performer may be contacted, who is to provide the services, and details of the out of hours place (if any);
    - (iv) the arrangements for obtaining repeat prescriptions and, if a dispensing practice, for dispensing prescriptions;
    - (v) details (including, if appropriate, where and when the service or clinic is available) of the services provided and by whom including child health surveillance services, contraceptive services, maternity medical services, minor surgery services and any specialist clinics;
    - (vi) the numbers, functions and availability of professionals other than performers (including nurses, midwives and health visitors) who assist in the provision of personal medical services;
    - (vii) the arrangements for receipt of patients' comments, suggestions and complaints;
    - (viii) the geographical boundary of the practice area by reference to a sketch, diagram, plan or postcode;
    - (ix) whether the practice premises have suitable access for all disabled patients and if not the reasons why they are unsuitable for particular types of disability; and
    - (x) arrangements for notifying patients if the provider engages or employs a General Practice (GP) Registrar, undergraduate medical student or a person who is engaged in employment under section 10 of the Medical Act 1983<sup>(10)</sup> in an approved medical practice.
- (2) The agreement shall contain terms requiring a provider to—
- (a) review the practice leaflet at least once in every period of 12 months, and make any amendments necessary to maintain its accuracy; and
  - (b) make available a copy of the most recent edition of the practice leaflet to the Health Board, to each patient, and to any other person who, in the provider’s opinion, reasonably requires one.

### Qualifying bodies

**26.**—(1) Where a provider is a qualifying body the agreement shall contain terms providing for the matters set out in the following sub-paragraphs.

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<sup>(10)</sup> 1983 c. 54.



(2) The qualifying body shall not carry on any business which it is not required or authorised to carry on by the agreement.

(3) A Health Board which becomes aware of a breach of the term specified in sub-paragraph (2) shall give notice immediately to the provider, requiring that the qualifying body cease, before the end of the period of one month beginning on the day on which the notice is given (“the notice period”) to carry on business other than that required or authorised by the agreement and, if the qualifying body does not cease to carry on other business in accordance with that requirement, the agreement shall (without further notice) terminate.

(4) No member of the qualifying body shall transfer or grant an interest (whether legal or beneficial) of any kind in any share in that body to any person other than a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act.

(5) A Health Board which becomes aware of a breach of the term specified in sub-paragraph (4) shall give notice immediately to the provider, requiring that the entire legal and beneficial interest in the share in question be vested, before the end of the period of one month beginning on the day on which the notice is given (“the notice period”), to a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act and, if the share (or, as the case may be, the interest granted in the share) is not transferred in accordance with that requirement, the agreement shall terminate without further notice.

(6) The agreement shall terminate immediately if–

- (a) all the shares in the qualifying body are transmitted to a personal representative of a member of that body;
- (b) the personal representative is not a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act; and
- (c) there are no other parties to the agreement, apart from the Health Board.

(7) Where–

- (a) fewer than 100% of the shares in the qualifying body are transmitted to a personal representative of a member of that body who is not a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act, or
- (b) all the shares are transmitted to such a personal representative, but there is another party to the agreement apart from the Health Board and the qualifying body,

the Health Board shall give notice immediately to the provider, requiring that the share or shares which have been transmitted to a member’s personal representative be transferred or transmitted, before the end of the period of two months beginning with the day on which the member of the qualifying body died (“the notice period”), to a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act and, if the shares are not transferred or transmitted in accordance with that requirement, the agreement shall terminate without further notice.

(8) Where an NHS trust which was a member of the qualifying body is dissolved by the Scottish Ministers–

- (a) if the NHS trust was the sole member of the qualifying body and the qualifying body was the only party to the agreement (other than the Health Board), the agreement shall terminate immediately;
- (b) except as provided in paragraph (a) above, the Health Board shall give notice immediately to the provider, requiring that the share or shares which were held by the NHS trust are transferred, before the end of the period of one month beginning on the day on which the notice is given (“the notice period”), to a person specified in paragraph (a), (b) or (e) of section 17D(1) of the 1978 Act and, if the shares are not transferred in accordance with that requirement, the agreement shall terminate without further notice.

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(9) Where the qualifying body is wound up under Part IV of the Insolvency Act 1986<sup>(11)</sup>, or is subject to an administration order under Part II of that Act, the agreement shall terminate immediately.

(10) The provider shall immediately give notice in writing to the Health Board of the transfer or transmission of any share in the qualifying body.

### **Insurance**

**27.** An agreement shall require the provider to ensure that each performer has adequate insurance against liability arising from negligent performance of personal medical services and such other services as that person, or another acting on their behalf, may perform under the agreement.

## SCHEDULE 2

Regulation 6

### PUBLICATION OF DETAILS

1. Names and addresses of the parties to the agreement.
2. Date of the agreement.
3. Names and qualifications of the performers.
4. Date and place of first registration of each performer.
5. All addresses at which personal medical services are performed under the agreement.
6. Details of the normal hours and the normal place.
7. Details of any appointments system and arrangements for urgent and non-urgent access to a performer.
8. The arrangements under which a person may receive personal medical services outwith normal hours, including how a performer may be contacted, who is to provide the services, and details of the out of hours place (if any).
9. The arrangements for obtaining repeat prescriptions and, if a dispensing practice, for dispensing prescriptions.
10. Details (including, if appropriate, where and when the service or clinic is available) of the services provided and by whom including child health surveillance services, contraceptive services, maternity medical services, minor surgery services and any specialist clinics.
11. The numbers, functions and availability of professionals other than medical practitioners (including nurses, midwives and health visitors) who assist in the provision of personal medical services.
12. The arrangements for receipt of patients' comments, suggestions and complaints.
13. Whether the practice premises have suitable access for all disabled patients and if not the reasons why they are unsuitable for particular types of disability; and
14. Arrangements for notifying patients if the provider engages or employs a General Practice (GP) Registrar or undergraduate medical student or a person who is engaged in employment under section 10 of the Medical Act 1983<sup>(12)</sup> in an approved medical practice which notification shall include a description of the role of such a person.

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<sup>(11)</sup> 1986 c. 45.

<sup>(12)</sup> 1983 c. 54

## SCHEDULE 3

Regulation 7(4)

### PERFORMANCE OF PERSONAL MEDICAL SERVICES UNDER AN AGREEMENT ARRANGEMENT OF PARAGRAPHS

- 1-3. Performer's qualifications.
- 4-10. Availability of personal medical services and other services.
- 11. Responsibility for performance of personal medical services.
- 12-13. Medical certificates.
- 14. Patient records.
- 15-16. Prescribing.
- 17. Provision of drugs or appliances for immediate treatment.
- 18. Charges.

#### **Performer's qualifications**

- 1. A medical practitioner who performs personal medical services shall be suitably experienced.
- 2. A medical practitioner who performs personal medical services shall be competent to perform them, having regard, in particular, to that practitioner's training and experience in employment.
- 3. Where a decision whether any, and if so what, action is to be taken under an agreement requires the exercise of professional judgment, a medical practitioner shall not, in reaching that decision, be expected to exercise a higher degree of skill, knowledge and care than—
  - (a) in the case of a medical practitioner performing child health surveillance services or minor surgery services, that which any general medical practitioner included, under the GMS Regulations, in the child health surveillance list or, as the case may be, the minor surgery list, may reasonably be expected to exercise; and
  - (b) in any other case, that which general medical practitioners as a class may reasonably be expected to exercise.

#### **Availability of personal medical services and other services**

- 4.—(1) All necessary and appropriate personal medical services of the type usually provided by general medical practitioners shall be performed in respect of the patients receiving personal medical services under an agreement, including the following:—
  - (a) giving advice, where appropriate, to a patient in connection with the patient's general health, and in particular about the significance of diet, exercise, the use of tobacco, the consumption of alcohol and the misuse of drugs or solvents;
  - (b) offering to patients consultations and, where appropriate, physical examinations for the purpose of identifying, or reducing the risk of, disease or injury;
  - (c) offering to patients appropriate immunisations;
  - (d) arranging for the referral of patients, as appropriate, for the provision of any other services under the 1978 Act;
  - (e) giving advice, as appropriate, to enable patients to avail themselves of social work services provided by a local authority; and
  - (f) providing a cervical smear test—

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- (i) upon request to all patients who are women aged 21 to 60 (who have a cervix) at intervals of no more than five and a half years; and
  - (ii) at such shorter intervals as may be appropriate to all patients in respect of whom the need for a cervical smear test is indicated by the result of a previous test or other treatment.
- (2) Nothing in this Schedule prevents a performer from—
- (a) arranging for the referral of a patient pursuant to paragraph (d) of sub-paragraph (1) without first seeing the patient, in a case where the medical condition of the patient makes that course of action appropriate; or
  - (b) visiting the patient in circumstances where the agreement does not place the performer under an obligation to do so.
5. In normal hours, personal medical services shall be performed—
- (a) at the normal place; or
  - (b) in the case of a patient whose condition is such that, in the reasonable opinion of the performer from whom treatment is requested, it would be inappropriate for the patient to attend at the normal place, at the place where the patient is at that time residing or, at some other appropriate place.
6. Outside normal hours, if, in the light of a patient’s medical condition, it is the reasonable opinion of the performer from whom treatment is requested that a consultation is needed before the next time at which the patient could be seen during normal hours, personal medical services shall be performed—
- (a) at the normal place;
  - (b) at the out of hours place; or
  - (c) in the case of a patient whose condition is such that, in the reasonable opinion of the performer from whom treatment is requested, it would be inappropriate for the patient to attend either at the normal place or at the out of hours place, at the place where the patient is at that time residing or, at some other appropriate place.
7. Appropriate treatment which is immediately required owing to an accident or emergency at any place in the practice area shall be given (upon the request of any person) to any person.
8. Immediately necessary treatment shall be given, upon request, to any person—
- (a) who lives in the practice area, has been refused acceptance as a personal medical services patient, and is not the patient of another medical practitioner practising in that area;
  - (b) to whom regulation 7 of the Choice of Medical Practitioner Regulations or paragraph 23(a) of Schedule 1 applies but who has been refused acceptance by a performer or the provider as a temporary resident; or
  - (c) in respect of whom a request has been made that that person should cease to be a personal medical services patient with immediate effect in accordance with paragraph 22(b) of Schedule 1,
- until the expiry of the period of 14 days beginning with the date when that person was refused acceptance (or, as the case may be, with the date when the request that that person should no longer be a personal medical services patient was made), or until that person has been accepted by or assigned to another medical practitioner, or accepted by another provider, whichever occurs first.
9. Where a person applies to a performer for treatment and claims to be on the performer’s list of that performer or on the pooled list (if any), but fails to produce their medical card on request and

the performer from whom treatment is requested has reasonable doubts about that person's claim, any necessary treatment shall nevertheless be given to that person.

10. Maternity medical services shall be performed in the event of a summons to an obstetric emergency even if the performer from whom treatment is requested has not been approved by a Health Board in accordance with regulation 8(3).

### **Responsibility for performance of personal medical services**

11.—(1) Personal medical services shall be performed by those performers named in an agreement as being primarily responsible for the performance of those services in respect of the patients, except in the circumstances specified in an agreement in accordance with paragraph 11(d) of Schedule 1 when, subject to sub-paragraphs (2) and (3), the services may be performed by another medical practitioner.

(2) Child health surveillance services and minor surgery services may be performed only by a performer about whom a Health Board has satisfied itself in accordance with regulation 8(1) or, as the case may be 8(3).

(3) Where it is clinically reasonable in the circumstances to delegate a task or duty connected with the performance of personal medical services to someone other than a performer, that task or duty may be delegated by a performer to a person whom that performer is satisfied is competent to undertake that task or duty (but clinical responsibility for the performance of personal medical services will remain with the performer).

### **Medical certificates**

12. A patient or his personal representatives shall be issued, free of charge, any medical certificate of a description prescribed in column 1 of Schedule 9 to the GMS Regulations which is reasonably required under or for the purposes of the enactments specified in relation to that certificate in column 2 of that Schedule, except where, for the condition to which the certificate relates, the patient—

- (a) is being attended by a performer who is not a performer in relation to the agreement in question; or
- (b) is not being treated by, or under the supervision of, a performer.

13.—(1) A medical officer, or an officer of the Department of Social Security acting on behalf of and at the direction of that medical officer, shall, if a performer is satisfied that the patient consents, be provided on request—

- (a) in writing and within such reasonable period as the medical officer (or, as the case may be, the officer of the Department of Social Security) may specify, with such clinical information as the medical officer considers relevant about a patient to whom a medical certificate has been issued or whose request for the issue of such a certificate has been refused; and
- (b) with information regarding any prescription form or medical certificate issued in respect of a patient or about any statement made in a report under this sub-paragraph.

(2) For the purpose of being satisfied that the patient has consented as required by sub-paragraph (1), the performer may (unless the performer has reason to believe that the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department of Social Security, that that person holds the patient's written consent.

### **Patient records**

14.—(1) Adequate records of the illnesses and treatment of patients shall be kept—

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- (a) on forms which shall be supplied to the provider for the purpose by the Health Board; or
  - (b) by way of computerised records where the provider has first obtained written consent of the Health Board.
- (2) Such a record shall be forwarded to the Health Board–
- (a) on request of the Health Board, within 14 days;
  - (b) where the Board informs the provider of the death of a patient, within 14 days of the receipt of that information; and
  - (c) in any other case where a patient has died, not later than 30 days after the provider learns of that death.

### **Prescribing**

**15.** Where any drugs, medicines or listed appliances are needed for the treatment of any patient, paragraphs 29 to 31 of Schedule 1 to the GMS Regulations shall apply, except that for “treatment under these terms of service” or any related phrase there shall be substituted “treatment in connection with an agreement” or its related equivalent.

**16.** Subject to paragraph 18(b) of this Schedule and paragraph 36(h) and (p) of Schedule 1 to the GMS Regulations (as applied by paragraph 18(b) of this Schedule) no fee or other remuneration shall be demanded or accepted from a patient for any prescription for any drug or appliance.

### **Provision of drugs or appliances for immediate treatment**

- 17.** In addition to the performance of personal medical services, a performer–
- (a) shall provide to a patient any appliance or drug, not being a Scheduled drug, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and
  - (b) may provide to a patient any appliance or drug, not being a Scheduled drug which the performer applies or provides to that patient.

### **Charges**

**18.** No fee or other remuneration shall be demanded or accepted for any treatment given to a patient, except –

- (a) in those cases specified in sub-paragraphs (b), (e), (f), (h), (j) to (n) and (p) of paragraph 36 of Schedule 1 to the GMS Regulations;
- (b) where a patient is treated under paragraph 9 of this Schedule, in which case a reasonable fee may be demanded and accepted for any treatment given, subject to any provisions in an agreement relating to the repayment of the fee to the patient;
- (c) for treatment consisting of immunisation against a disease other than typhoid, paratyphoid, cholera, poliomyelitis and infectious hepatitis, which was requested in connection with travel abroad; or
- (e) for treatment which is not a type usually provided by general medical practitioners and which is given–
  - (i) pursuant to section 57 of the 1978 Act; or
  - (ii) in a registered nursing home which is not providing services under the 1978 Act,if, in either case, the performer providing the treatment is serving on the staff of a hospital providing services under the 1978 Act as a specialist providing treatment of the kind the

patient requires, subject to any provisions in the agreement relating to the provision by the performer to the Health Board of information about the treatment.

## SCHEDULE 4

Regulation 2

### DISPUTES

1. Except where the provider is a health service body within the meaning of section 17A of the 1978 Act, the agreement shall include a dispute resolution procedure which—

- (a) requires that the parties be bound by any determination made by the adjudicator to resolve the matter in dispute; and
- (b) complies with the requirements specified in this Schedule.

2. Any dispute arising out of or in connection with the agreement may be referred to an adjudicator appointed by the Scottish Ministers to consider and determine the matter in accordance with the provisions of this Schedule.

3. Any party wishing to commence a dispute resolution under the provisions of this Schedule shall send to the Scottish Ministers a written request for dispute resolution which shall include or be accompanied by—

- (a) the names and addresses of the parties to the dispute resolution;
- (b) a copy of the agreement;
- (c) a brief statement describing the nature and circumstances of the dispute.

4.—(1) Within the period of seven days beginning with the date of appointment to consider and determine a matter, the adjudicator shall—

- (a) give to the parties notice in writing of the adjudicator's appointment; and
- (b) include with the notice a written request to the parties to make in writing within a specified period any representations when they may wish to make about the matter.

(2) The adjudicator shall give, with the notice given under sub-paragraph (1), to the party other than the one which referred the matter to dispute resolution a copy of any document by which the matter was referred to dispute resolution.

(3) The adjudicator shall, upon receiving any representations from a party, give a copy of them to the other party and shall request (in writing) a party to whom a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.

(4) For the purposes of assisting in consideration of the matter, the adjudicator may—

- (a) invite representatives of the parties to appear before the adjudicator to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which the adjudicator wishes them to give special consideration;
- (b) consult other persons whose expertise the adjudicator considers will assist in consideration of the matter.

(5) Where the adjudicator consults another person under sub-paragraph (4)(b), the adjudicator shall notify the parties accordingly and, where the adjudicator considers that the interests of any party might be substantially affected by the result of the consultation, the adjudicator shall give to the parties such opportunity as the adjudicator considers reasonable in the circumstances to make observations on those results.

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- (6) In considering the matter, the adjudicator shall consider—
- (a) any written representations made in response to a request under sub-paragraph (1)(b), but only if they are made within the specified period;
  - (b) any written observations made in response to a request under sub-paragraph (3), but only if they are made within the specified period;
  - (d) the results of a consultation under sub-paragraph (4)(b); and
  - (e) any observations made in accordance with an opportunity given under sub-paragraph (5).

(7) In this Schedule, “specified period” means such period as the adjudicator shall specify in the request being not less than two, nor more than four, weeks beginning with the date on which the notice referred to is given but the adjudicator may, if the adjudicator considers that there is good reason for doing so, extend any such period (even after it has expired) and, where the adjudicator does so, a reference in this paragraph to the specified period is to the period as so extended.

5. Subject to the other provisions of this Schedule and to any agreement by the parties, the adjudicator shall have discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

6. The determination, and the reasons for it shall be recorded by the adjudicator in writing and notice of the determination (including the record of the reasons) shall be given to the parties and to the Scottish Ministers.

SCHEDULE 5

Regulation 1(2)

MINOR SURGERY SERVICES

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Injections	intra articular peri articular varicose veins haemorrhoid
Aspirations	joints cysts bursae hydrocele
Incisions	abscesses cysts thrombosed piles
Excisions	sebaceous cysts lipoma skin lesions for histology intradermal naevi, papilloma, dermatofibroma and similar conditions warts



	removal of toe nails (partial and complete)
Curette, Cautery and cryocautery	warts and verrucae
	other skin lesions (eg molluscum contagiosum)
Other	removal of foreign bodies
	nasal cautery

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, make provisions concerning arrangements to be made in relation to personal medical services provided under Section 17C of the National Health Service (Scotland) Act 1978 (“the 1978 Act”). Pilot scheme arrangements for the provision of personal medical services are already in operation under the National Health Service (Primary Care) Act 1997. These Regulations allow these arrangements to be placed on a permanent footing. These Regulations also ensure that the arrangements for personal medical services under an agreement will be similar in scope to the provision of general medical services.

Regulation 1 contains a list of definitions, relevant to these Regulations.

Regulations 2 to 5 make provision with regard to the agreements themselves. They require the agreements to comply with the terms of Schedules 1 and 4 and provide for withdrawal from an agreement by parties other than a Health Board and for variation of an agreement.

Regulations 7 and 8 provide that personal medical services may only be performed by practitioners meeting certain requirements. These are similar to the requirements applicable to the provision of general medical services.

Regulations 9 to 11 provide for the keeping and maintenance of lists of patients and deal with the circumstances in which patients may be removed from lists or transferred to other lists. The provisions made remain consistent with general medical services requirements.

Regulations 12 and 13 contain provisions allowing parties to agreements to become health service bodies and provide for enforcement of directions as to payments to be made by diligence.

Regulations 14 and 15 provide for financial assistance to be given to certain bodies who seek to enter into agreements. They also provide the conditions under which such assistance may be given. Financial assistance may be given both in respect of work carried out in preparing proposals for an agreement and in respect of the preparatory work in implementing provision of personal medical services.

Regulation 16 provides for liabilities of deputies where deputising arrangements are made. This regulation provides that the person deputising shall be liable for their own acts or omissions.

Schedule 1 sets out the minimum requirements of agreements. These include requirements to identify patients who will receive services, to provide services which are equivalent in scope to general medical services, to make provision regarding the performance of personal medical services by practitioners, to provide requirements in respect of patient lists including setting maximum numbers of patients who may be on a list, and to set out the procedure for acceptance of patients to lists and

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termination of responsibility for patients. The Schedule also imposes requirements to make provision with regard to practice leaflets containing certain particulars relevant to an agreement.

Particular provisions are to be made in agreements made with qualifying bodies. In particular these include requirements to provide information about transfers of interests in such bodies and terminating the agreement should the interest in the qualifying body transfer to a person or body with whom the Health Board is not permitted to enter into agreements pursuant to section 17C of the 1978 Act. Schedule 1 also requires that adequate insurance arrangements are made for practitioners under an agreement.

Schedule 2 sets out details of an agreement that must be published by a provider. These include details concerning the practices, the performers and the services that will be performed.

Schedule 3 lays down the conditions under which personal medical services may be performed. It requires that an appropriate range of services is provided by suitably experienced practitioners. It makes provision for the issue of appropriate medical certificates and requires that patient records are maintained in a specified manner. It makes provision with regard to the prescribing of drugs, medicines or appliances and with regard to charges.

Schedule 4 sets out a dispute resolution procedure which is to be included in agreements. This procedure enables a matter to be referred to an adjudicator for consideration and decision.

Schedule 5 specifies certain minor surgery services that may be performed under an agreement. These are equivalent to the services that may be provided under general medical services.