

2001 No. 85

NATIONAL HEALTH SERVICE

The National Health Service (Choice of Medical Practitioner) (Scotland) Amendment Regulations 2001

Made 8th March 2001

Laid before the Scottish Parliament 9th March 2001

Coming into force 1st April 2001

The Scottish Ministers, in exercise of the powers conferred by sections 17F(1), (2) and (5), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

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

(2) In these Regulations “the principal Regulations” means the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(b).

Amendment of regulation 1 of the principal Regulations

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

(2) In paragraph (2)(a)–

(a) for the definition of “doctor’s list” there is substituted–

““doctor’s list” means a list of doctor’s patients kept by a Health Board or primary care NHS trust–

- (i) in respect of a doctor providing general medical services, in accordance with regulation 27 of the GMS Regulations(c), and
- (ii) in respect of a doctor performing personal medical services under a pilot scheme agreement, in accordance with paragraph 3 of the Directions to Health Boards Concerning Patient Lists (Personal Medical Services) made under section 6(1) of the 1997 Act, and
- (iii) in respect of a doctor performing personal medical services under a PMS agreement, in accordance with regulation 10 of the PMS Regulations;”.

(a) 1978 c.29. Section 17F was inserted by section 23(2) of the National Health Service (Primary Care) Act 1997 (c.46); section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudication Act 1983 (c.41), Schedule 9, paragraph 24; 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).

(b) S.I. 1998/659, amended by S.S.I. 2000/191.

(c) S.I. 1995/416; relevant amending instruments are S.I. 1998/660 and S.S.I. 1999/54.

- (b) after the definition of “pilot scheme agreement” there is inserted—
- ““PMS agreement” means an agreement made pursuant to section 17C of the 1978 Act under which personal medical services are provided;
 - “PMS provider” means any person or body with whom a Health Board enters into a PMS agreement;
 - “the PMS Regulations” means the National Health Service (Personal Medical Services) (Scotland) Regulations 2001(a);”

Amendment of regulation 2 of the principal Regulations

3.—(1) Regulation 2 of the principal Regulations (procedure for choosing a doctor) is amended in accordance with the following provision of this regulation.

(2) In paragraph (1), after “pilot scheme agreement(b)” there is inserted “or PMS agreement”.

Amendment of regulation 3 of the principal Regulations

4.—(1) Regulation 3 of the principal Regulations (change of doctor) is amended in accordance with the following provision of this regulation.

(2) In paragraph (3) after “pilot scheme agreement” in each place where it occurs there is inserted “or PMS agreement”.

Amendment of regulation 4 of the principal Regulations

5.—(1) Regulation 4 of the principal Regulations (assignment of persons to doctors) is amended in accordance with the following provisions of this regulation.

(2) At the end of paragraph (2)(b) there is added “; or”.

(3) After paragraph (2)(b) there is inserted—

“(c) require a PMS provider to assign the applicant in accordance with regulation 5 to a doctor who performs personal medical services in connection with a PMS agreement to which the PMS provider is a party.”.

(4) In paragraphs (3), (5) and (7) after “pilot scheme provider” in each place where it occurs there is inserted “or PMS provider”.

(5) In paragraph (6)(b) after “a pilot scheme agreement” there is added “or a PMS agreement”.

(6) At the end of paragraph (7)(b) there is added “; or”.

(7) After paragraph (7)(b) there is inserted—

“(c) a PMS provider has requested the Health Board or primary care NHS trust to remove a person’s name from a doctor’s list or a pooled list under corresponding provisions of a PMS agreement;”.

(8) In paragraph (7) after “pilot scheme agreement” in the second place where it occurs there is inserted “or PMS agreement”.

Amendment of regulation 5 of the principal Regulations

6.—(1) Regulation 5 of the principal Regulations (assignment by a pilot scheme provider) is amended in accordance with the following provisions of this regulation.

(2) In the heading after “pilot scheme provider” there is added “or PMS provider”.

(3) After “pilot scheme provider” in each place where it occurs there is inserted “or PMS provider”.

(4) In paragraph (1), for “regulation 4(2)(b)” there is substituted “regulation 4(2)(b) or (c)”.

(5) In paragraphs (4) and (6), after “pilot scheme agreement” there is inserted “or PMS agreement”.

(a) S.S.I. 2001/72.

Amendment of regulation 6 of the principal Regulations

7.—(1) Regulation 6 of the principal Regulations (representations against assignment or a requirement to assign) is amended in accordance with the following provision of this regulation.

(2) After “pilot scheme provider” in each place where it occurs there is inserted “or PMS provider”.

(3) In paragraph (2) for “regulation 4(2)(b)” there is substituted “regulation 4(2)(b) or (c)”.

Amendment of regulation 7 of the principal Regulations

8.—(1) Regulation 7 of the principal Regulations (temporary residents) is amended in accordance with the following provision of this regulation.

(2) In paragraph (1) after “pilot scheme agreement” there is inserted “or PMS agreement”.

Amendment of regulation 8 of the principal Regulations

9.—(1) Regulation 8 of the principal Regulations (transfer of doctors between provision of general medical services and performance of personal medical services) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) after “personal medical services” where it first occurs there is inserted “under a pilot scheme agreement”.

(3) After paragraph (2) there is added—

“(3) Where a person has chosen a doctor from whom he is to receive personal medical services under a PMS agreement and—

(a) his name is included in the list of that doctor; or

(b) he has been accepted for inclusion of his name in that list,

he shall, subject to regulation 3(1) and his right to withdraw from the list of a doctor under regulation 10(1) of the PMS Regulations, continue to be included in the list of his chosen doctor notwithstanding that the doctor ceases to perform personal medical services if the doctor immediately starts to provide general medical services by virtue of an arrangement made with him by the Health Board or primary care NHS trust which was a party to the pilot scheme agreement in connection with which he previously performed personal medical services.”

Addition of regulation 9 of the principal Regulations

10. After regulation 8 of the principal Regulations (transfer of doctors between provision of general medical services and performance of personal medical services) there is added—

“Transfer of doctors from a pilot scheme agreement to a PMS agreement

9.—(1) Where a person has chosen a doctor from whom he is to receive personal medical services under a pilot scheme agreement and—

(a) his name is included in the list of that doctor; or

(b) he has been accepted for inclusion of his name in that list,

he shall, subject to regulation 3(1) and his right to withdraw from the list of a doctor under paragraph 7 of the Directions to Health Boards Concerning Patient Lists (Personal Medical Services) made under section 6(1) of the 1997 Act, continue to be included in the list of his chosen doctor notwithstanding that the doctor ceases to perform personal medical services under a pilot scheme agreement, if the doctor—

(i) immediately starts to perform personal medical services in connection with a PMS agreement and one of the parties to that agreement is a Health Board or primary care NHS trust which was previously one of the parties to the pilot scheme agreement; and

- (ii) is primarily responsible for the performance of personal medical services under that agreement.”.

St Andrew's House,
Edinburgh
8th March 2001

SUSAN C DEACON
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998 (S.I. 1998/659) (“the principal Regulations”), which relate to the right of a person to choose the doctor from whom that person is to receive primary medical services.

The principal Regulations cover doctors who perform personal medical services in connection with a pilot scheme. These Regulations extend the application of the principal Regulations to cover doctors who perform personal medical services under the PMS Regulations.

Regulation 2 amends Regulation 1 of the principal Regulations by replacing the definition of a “doctor’s list” so as to extend it to include doctors performing personal medical services under a PMS agreement and by introducing new definitions for “a PMS agreement”, a “PMS provider” and “the PMS Regulations”.

Regulations 3 to 9 amend the principal Regulations to include appropriate references to personal medical services under the PMS Regulations.

Regulation 10 inserts a new regulation 9 into the principal Regulations which provides that a person who has chosen a particular doctor will, in certain circumstances, continue to be included in the list of that doctor if the doctor transfers from a pilot scheme agreement to a PMS agreement.

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