
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

**The General Medical Services and Section
17C Agreements (Transitional and other
Ancillary Provisions) (Scotland) Order 2004**

PART 10

SAVINGS, MODIFICATIONS, AMENDMENTS AND REVOCATIONS

Meaning of suitable experience

97.—(1) Until the coming into force of article 5 of the 2003 Order, where, in any enactment, there is a reference to a medical practitioner being “suitably experienced” within the meaning of section 21(2) of the 1978 Act, that reference shall be construed in accordance with paragraph (2).

(2) A medical practitioner shall, pursuant to paragraph (1), be regarded as being “suitably experienced” if he—

- (a) holds a certificate of prescribed experience;
- (b) holds a certificate of equivalent experience;
- (c) is exempt from the need to have acquired the prescribed experience pursuant to regulation 5 of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(1) (exemptions); or
- (d) has an acquired right to practise pursuant to regulation 5 of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(2), other than by virtue of regulation 5(1)(d) of those Regulations (acquired rights).

(3) In this article, “certificate of prescribed experience” and “certificate of equivalent experience” have the meanings assigned to them in regulation 2(1) of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998.

(4) Notwithstanding the repeal of sections 19, 21 and 22 of the 1978 Act by paragraph 1(7) of the Schedule to the 2004 Act, the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998 and the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 shall remain in force (subject to the transitory modifications made in this Part) until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to, the 2003 Order.

(1) *S.I. 1998/7* as amended by *S.I. 1998/669* and *2000/23*. The whole Regulations are prospectively revoked by *S.I. 2003/1250*, article 31(5) and Part 2 of Schedule 10.

(2) *S.I. 1994/3130* as amended by *S.I. 1997/2817* and *2003/3148*. The whole Regulations are prospectively revoked by *S.I. 2003/1250*, article 31(5) and Part 2 of Schedule 10.

Savings of certain provisions of the Medical Act 1983

98. Notwithstanding the coming into force of the amendments to sections 11 and 12 of the Medical Act 1983⁽³⁾ made by paragraph 4 of the Schedule to the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 ⁽⁴⁾, in relation to any employment before 1st April 2004 in—

- (a) an approved medical practice; or
- (b) a health centre,

sections 11(4) and 12(2)(a) of the Medical Act 1983 shall have effect as if those amendments had not been brought into force.

Saving of section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992

99. Notwithstanding the coming into force of the amendments to the definition of worker in section 279 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽⁵⁾ (health service practitioners) made by paragraph 7 of the Schedule to the Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004, in relation to any complaint arising in respect of a matter which occurred before 1st April 2004, section 279 shall have effect as if those amendments had not been brought into force.

Transitory modification of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994

100.—(1) Until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the Vocational Training for General Medical Practice (European Requirements) Regulations 1994 are to have effect as if they were amended in accordance with this article.

(2) In regulation 5 (acquired rights)⁽⁶⁾, for paragraph (4)(a), substitute—

- “(a) a person who has the acquired right specified in paragraph (1)(a), but only by virtue of the fact that he was a restricted services principal included in a list specified in that paragraph, is not entitled to be considered as suitably experienced within the meaning of section 21(2) of the National Health Service (Scotland) Act 1978 for the purposes of regulation 4(1), (2)(a) or (3)(a) of the National Health Service (General Medical Services Contracts)(Scotland)Regulations 2004.”

Transitory modification of the National Health Service (Vocational Training for General Medical Practice (Scotland) Regulations 1998

101.—(1) Until their revocation by virtue of article 31(5) of, and Part 2 of Schedule 10 to the 2003 Order, the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998⁽⁷⁾ are to have effect as if they were amended in accordance with this article.

(2) In regulation 2 (interpretation)⁽⁸⁾—

- (a) in the definition of “General Practice (GP) Registrar”—

(3) 1983 c. 54.

(4) S.I. 2004/957.

(5) 1992 c. 52. Section 279 as amended by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 122, the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 67, the Health and Social Care Act 2001 (c. 15), Schedule 5, paragraph 9, the National Health Service Reform and Health Care Professions Act 2002 (c. 17), Schedule 2, paragraph 60 and Schedule 3, paragraph 13 and the 2003 Act, Schedule 11, paragraph 59.

(6) Regulation 5 was previously amended by S.I. 1997/2817; the whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(7) 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23. The Regulations are prospectively revoked by S.I. 2003/1250.

(8) Regulation 2 was amended by S.I. 1998/669.

- (i) for “has the meaning assigned to it in regulations made under section 19 of the Act” substitute—
 - “means a medical practitioner who is being trained in general practice by a medical practitioner who has been approved for that purpose by the Joint Committee under regulation 7”; and
- (ii) for the words from “personal medical services” to the end, substitute—
 - “primary medical services in connection with an agreement for primary medical services made under section 17C of the Act;”;
- (b) in the definition of “medical list”, in both sub-paragraphs (a) and (b), insert after “list” “that was”;
- (c) in paragraph (2)—
 - (i) in sub-paragraph (a) for “is (or if the context so requires was)” substitute “was”; and
 - (ii) omit the full out text at the end.
- (3) Regulation 4 shall be omitted⁽⁹⁾.
- (4) In regulation 5 (exemptions), in paragraph (1) for sub-paragraph (d) substitute—
 - “(d) if his name was, on 31st December 1994, included in a medical list for the provision of general medical services limited to—
 - (i) child health surveillance services only;
 - (ii) contraceptive services only;
 - (iii) maternity medical services only.”

Revocation of the Choice Regulations

102. The National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998⁽¹⁰⁾, the National Health Service (Choice of Medical Practitioner) (Scotland) Amendment Regulations 2000⁽¹¹⁾ and the National Health Service (Choice of Medical Practitioner) (Scotland) Amendment Regulations 2001⁽¹²⁾ are hereby revoked.

⁽⁹⁾ Regulation 4 was amended by [S.S.I. 2000/23](#).

⁽¹⁰⁾ [S.I. 1998/659](#).

⁽¹¹⁾ [S.S.I. 2000/191](#).

⁽¹²⁾ [S.S.I. 2001/85](#).