
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

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

PART 2

**TRANSITIONAL PROVISIONS RELATING
TO GENERAL MEDICAL SERVICES**

Application and interpretation of this Part

2.—(1) In this Part—

- (a) articles 3 to 26 apply to a default contract, or a general medical services contract entered into on 1st April 2004, with—
 - (i) an individual medical practitioner who has entered into the general medical services contract pursuant to an entitlement under article 3 of the Transitional Order or the default contract pursuant to article 13 of that Order;
 - (ii) a partnership which has entered into the general medical services contract pursuant to an entitlement under article 4 of that Order or the default contract pursuant to an entitlement under article 13 of that Order; or
 - (iii) a company in which one or more of the legal and beneficial shareholders is, on 31st March 2004, providing services under section 19 of the 1978 Act;
- (b) articles 27 and 28 apply to the contracts specified in sub-paragraph (a) and to a general medical services contract which takes effect immediately after a default contract with the same parties ceases to have effect; and
- (c) article 29 applies to all general medical services contracts and default contracts entered into before 1st April 2005.

(2) Unless it is entered into with a person to whom the particular article does not apply, a general medical services contract or a default contract which falls within paragraph (1) shall include, or be deemed to include, terms which have the effect specified in articles 3 to 29.

(3) In this Part—

“relevant medical practitioner” means a medical practitioner who, on 31st March 2004, is providing services under section 19 of the 1978 Act and—

- (a) as an individual medical practitioner has entered into—
 - (i) a default contract; or
 - (ii) a general medical services contract under which services are to be provided from 1st April 2004;
- (b) is a partner in a partnership that has entered into—

- (i) a default contract; or
- (ii) a general medical services contract under which services are to be provided from 1st April; or
- (c) is a legal and beneficial shareholder in a company which has entered into a general medical services contract under which services are to be provided from 1st April 2004; “succeeding contractor” means the default contractor which is a party to the default contract or the general medical services contractor which is a party to the general medical services contract which—
 - (a) a relevant medical practitioner has entered into as an individual medical practitioner;
 - (b) has been entered into by a partnership in which the relevant medical practitioner is a partner; or
 - (c) has been entered into by a company in which a relevant medical practitioner is a legal and beneficial shareholder.

Applications for inclusion in lists of patients

3. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for inclusion in that medical practitioner’s list of patients pursuant to regulation 2 or 3(1) of the Choice Regulations⁽¹⁾ but on 31st March 2004 that application had not yet been determined, the application shall, on 1st April 2004, be regarded as if it had been made to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 15 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

Acceptance of applications for inclusion in lists of patients

4.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had agreed to accept a person on that medical practitioner’s list of patients pursuant to paragraph 6 of Schedule 1 to the 1995 Regulations but on 31st March 2004 the relevant medical practitioner had not yet sent the signed medical card or the application to the Health Board in accordance with sub-paragraph (3) of that paragraph, that acceptance shall be regarded on 1st April 2004 as an acceptance by the succeeding contractor and notification of that acceptance shall be sent by the succeeding contractor to the Health Board in accordance with—

- (a) the term of its general medical services contract which gives effect to paragraph 15(5) of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In paragraph (1), “medical card” has the same meaning as in the 2004 Regulations.

Removal from the list of patients at the request of the patient

5. Where, on or before 31st March 2004, a Health Board had received notice from a patient under regulation 25(1) of the 1995 Regulations⁽²⁾ that the patient wished to be removed from a relevant medical practitioner’s list of patients but on 31st March 2004 that removal had not yet taken effect in accordance with that regulation, the removal shall take effect as a removal from the list of patients of the succeeding contractor as if it were a removal pursuant to a request received by the Health Board in accordance with—

(1) Regulation 2 was amended by [S.S.I. 2001/85](#) and Regulation 3 was amended by [S.S.I. 2000/191](#) and [S.S.I. 2001/85](#).

(2) Regulation 25 was amended by [S.S.I. 1999/54](#).

- (a) the term of the succeeding contractor's general medical services contract which gives effect to paragraph 19 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of 14 days in the term which gives effect to paragraph 19(3) (b) shall be read as a reference to the period of 14 days after the date on which the request made under regulation 25(1) of the 1995 Regulations was received by the Health Board; or
- (b) the equivalent term of its default contract, subject to a modification to the same effect.

Removal from the list of patients at the request of the relevant medical practitioner

6.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Health Board that the relevant medical practitioner wished to have a patient removed from that medical practitioner's list of patients in accordance with paragraph 9 of Schedule 1 to the 1995 Regulations but that removal had, on 31st March 2004, not yet taken effect, paragraph (2) shall apply.

(2) Except where paragraph (3) applies, the removal shall take effect as a removal from the list of patients of the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 20(8) of Schedule 5 to the 2004 Regulations, subject to the modification that the reference in that term to the eighth day after the Health Board receives the notice shall be read as a reference to the eighth day after the Health Board received the notice sent under paragraph 9 of Schedule 1 to the 1995 Regulations; or
- (b) the equivalent term of its default contract, subject to a modification to the same effect.

(3) Where, on or before 31st March 2004, the Health Board had been—

- (a) informed by the relevant medical practitioner under paragraph 9(3) of Schedule 1 to the 1995 Regulations that that medical practitioner was treating the patient at intervals of less than seven days but had not yet been notified by that medical practitioner that the patient no longer needed such treatment; or
- (b) notified by the relevant medical practitioner under that paragraph that the person no longer needed treatment at intervals of less than seven days,

paragraph (4) shall apply.

(4) In a case which falls within paragraph (3), the removal shall take effect as a removal from the list of patients of the succeeding contractor on—

- (a) the date on which the Health Board receives notification of the registration of the person with another provider of essential services (or their equivalent);
- (b) the eighth day after the Health Board received notice from the relevant medical practitioner that the person no longer needed treatment at intervals of less than seven days; or
- (c) the eighth day after the Health Board receives notice from the succeeding contractor that the patient no longer needs treatment at intervals of less than seven days,

whichever is the sooner.

Removals from the list of patients who are violent

7.—(1) This article applies where, on or before 31st March 2004, a person had been removed from a relevant medical practitioner's list of patients with immediate effect pursuant to paragraph 9(2) of Schedule 1 to the 1995 Regulations but—

- (a) confirmation in writing had not yet been given to the Health Board under paragraph 9(3);
- (b) reasonable steps had not yet been taken by the relevant medical practitioner under paragraph 9(5) to inform the person whose name had been removed; or

(c) written notice of the removal had not yet been given to the person by the Health Board under regulation 27(6) of the 1995 Regulations(3).

(2) In a case to which paragraph (1)(a) applies written confirmation of the request for removal shall be given to the Health Board by the succeeding contractor within 7 days from the date on which notification was given under paragraph 9(2).

(3) In a case to which paragraph (1)(b) applies, reasonable steps shall be taken by the succeeding contractor to inform the patient of the request for removal.

(4) In a case to which paragraph (1)(c) applies, the Health Board shall send written notice of the removal to the patient.

Removals from the list of patients who have moved

8. Where, on or before 31st March 2004, a Health Board had given a relevant medical practitioner notice in writing, in accordance with regulation 25(3) of the 1995 Regulations(4), that it intended to remove a person from the practitioner's list of patients but the six months referred to in that regulation had not yet expired, that notice shall be regarded as if it had been given to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 24 of Schedule 5 to the 2004 Regulations, subject to the modification that the reference to the period of six months in the term which gives effect to paragraph 24(a) shall be read as a reference to six months from the date of the notice given by the Health Board under regulation 25(3) of the 1995 Regulations; or
- (b) the equivalent term of its default contract, subject to a modification to the same effect.

Removals not reflected in the list of patients on 31st March 2004

9.—(1) This article applies where—

- (a) on or before 31st March 2004 the removal of a patient from a relevant medical practitioner's list of patients had taken effect under the 1995 Regulations; and
- (b) the Health Board had not, on 31st March 2004, reflected that removal in the list of patients of that medical practitioner which it maintained under regulation 27 of the 1995 Regulations.

(2) In a case to which this article applies, the Health Board shall—

- (a) remove the patient from the succeeding contractor's list of patients as soon as reasonably practicable after 1st April 2004; and
- (b) if notification of the removal was required to be given to the medical practitioner or the patient under the provision of the 1995 Regulations relevant to the removal and had not been given on or before 31st March 2004, notify the succeeding contractor and the patient of the removal.

Applications for acceptance as a temporary resident

10. Where, on or before 31st March 2004, a person had applied to a relevant medical practitioner for acceptance as a temporary resident under regulation 7 of the Choice Regulations(5) but on 31st March 2004 that application had not yet been determined, the application shall be regarded as if it had been made to the succeeding contractor and shall be dealt with in accordance with—

(3) Regulation 27 was amended by [S.I. 1998/660](#), [S.S.I. 1999/54](#) and [S.S.I. 2003/443](#).

(4) Regulation 25 was amended by [S.S.I. 1999/54](#).

(5) Regulation 7 was amended by [S.S.I. 2001/85](#).

- (a) the term of its general medical services contract which gives effect to paragraphs 16 and 17 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent terms of its default contract.

Acceptance of temporary residents

11.—(1) This article applies where—

- (a) on or before 31st March 2004, a relevant medical practitioner had accepted a person as a temporary resident under paragraph 7(b) of Schedule 1 to the 1995 Regulations; and
- (b) on 31st March 2004, his responsibility for that patient had not yet been terminated under paragraph 9A of that Schedule or the period for which the person was accepted as a temporary resident had not yet come to an end.

(2) In a case to which this article applies, the person shall, on 1st April 2004, be treated as if he had been accepted as a temporary resident by the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations, subject to the modification that reference to a period of three months in that term shall be read as a reference to a period of three months starting with the date on which the person was accepted as a temporary resident by the relevant medical practitioner under paragraph 7 of Schedule 1 to the 1995 Regulations; or
- (b) the equivalent term of its default contract subject to a modification to the same effect.

Termination of responsibility for temporary residents

12. Where, on or before 31st March 2004, a relevant medical practitioner had informed the Health Board in writing in accordance with paragraph 9A of Schedule 1 to the 1995 Regulations that he wished to terminate his responsibility for a temporary resident but, on 31st March 2004, that responsibility had not yet terminated under that paragraph, the responsibility of the succeeding contractor for that temporary resident shall terminate seven days after the date on which the information under that paragraph was given to the Health Board by the relevant medical practitioner.

Provision of immediately necessary treatment

13. Where, on 31st March 2004, a relevant medical practitioner was responsible for providing immediately necessary treatment to any person under paragraph 4(2) of Schedule 1 to the 1995 Regulations⁽⁶⁾, the succeeding contractor shall continue to be responsible for providing such treatment to that person for the period for which the relevant medical practitioner would have been responsible if that paragraph had not been revoked.

Newly registered patients

14.—(1) This article applies where, on 31st March 2004, a patient specified in paragraph (2)—

- (a) was entitled to be invited to participate in a consultation under paragraph 14(1) of Schedule 1 to the 1995 Regulations⁽⁷⁾; and
- (b) had not been given such an invitation.

(2) The patient referred to in paragraph (1) is a patient—

- (a) who, on or before 31st March 2004—

⁽⁶⁾ Paragraph 4 of Schedule 1 was amended by [S.I. 1996/842](#) and [S.I. 1998/660](#).

⁽⁷⁾ Paragraph 14 of Schedule 1 was amended by [S.I. 1998/660](#).

- (i) had applied for inclusion in a relevant medical practitioner's list of patients under regulation 2 or 3 of the Choice Regulations⁽⁸⁾ and whose application had been accepted; or
 - (ii) had been assigned to a relevant medical practitioner's list under regulation 4 of the Choice Regulations⁽⁹⁾; and
 - (b) in respect of whom a Health Board had not granted deferment of the obligation to invite him to participate in a consultation under paragraph 14 of Schedule 1 to the 1995 Regulations.
- (3) A patient to whom this article applies shall, on 1st April 2004 be regarded as a patient who falls within—
- (a) the term of the succeeding contractor's general medical services contract which gives effect to paragraph 4 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of its default contract.

Appointments system

15. Where, on or before 31st March 2004, a relevant medical practitioner had sought the approval of a Health Board under paragraph 23(4) of Schedule 1 to the 1995 Regulations for the operation of an appointments system, any notice shall be regarded as a notice given by the succeeding contractor to the Health Board for the purposes of the term of the general medical services contract which gives effect to paragraph 74(c) of Schedule 5 to the 2004 Regulations or the equivalent term of the default contract.

Qualifications of performers

16.—(1) Where, on 1st April 2004, a succeeding contractor continues to employ or engage a person who on 31st March 2004 was employed or engaged in accordance with the requirements of Schedule 1 to the 1995 Regulations by the relevant medical practitioner in relation to whom it is a succeeding contractor, paragraphs (2) and (3) shall apply.

(2) The requirements to make checks contained in the terms of the general medical services contract which give effect to paragraphs 50(1)(b) and 51(1)(a) of Schedule 5 to the 2004 Regulations, or in the equivalent terms of the default contract—

- (a) in a case where equivalent checks have previously been carried out in respect of that person by the relevant medical practitioner, shall not apply; or
- (b) in any other case, shall apply subject to the modification that the checks may be carried out at any time up to 30th June 2004.

(3) The requirement to obtain references in the term of the general medical services contract which gives effect to paragraph 52 of Schedule 5 to the 2004 Regulations, or in the equivalent term of the default contract, shall not apply if such references have been obtained, checked and found to be satisfactory by the relevant medical practitioner by whom the health care professional was employed or engaged on 31st March 2004.

Independent nurse prescribers and supplementary prescribers

17.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had notified the Health Board of any matters relating to an independent nurse prescriber or a supplementary

(8) Regulation 2 was amended by [S.S.I. 2001/85](#) and Regulation 3 was amended by [S.S.I. 2000/191](#) and [S.S.I. 2001/85](#).

(9) Regulation 4 was amended by [S.S.I. 2000/191](#) and [S.S.I. 2001/85](#).

prescriber under paragraph 29(c) of Schedule 1 to the 1995 Regulations⁽¹⁰⁾, the succeeding contractor shall not be required to notify the Health Board of those same matters under—

- (a) the term of its general medical services contract which gives effect to paragraph 58 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In paragraph (1) “independent nurse prescriber” and “supplementary prescriber” have the same meaning as in paragraph 1 of Schedule 1 to the 1995 Regulations.

Patient records

18.—(1) Where, on 31st March 2004, a relevant medical practitioner had the written consent of the Health Board to the keeping of computerised records under paragraph 32 of Schedule 1 to the 1995 Regulations⁽¹¹⁾ and that consent had not been withdrawn, that consent shall be regarded as written consent to the succeeding contractor for the purposes of—

- (a) the term of its general medical services contract which gives effect to paragraph 66 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of the default contract.

(2) Where—

- (a) on or before 31st March 2004, a Primary Care Trust had requested a relevant medical practitioner to send it the records relating to a patient under paragraph 32(8) of Schedule 1 to the 1995 Regulations; and
- (b) on 31st March 2004 that request had not yet been complied with,

the records requested shall be sent by the succeeding contractor to the Health Board as soon as possible.

(3) Where, on or before 31st March 2004, a relevant medical practitioner had been informed of the death of a patient on its list by the Health Board or had otherwise learned of the death of such a patient but on 31st March 2004 had not yet sent that patient’s records to the Health Board in accordance with paragraph 32(8)(b) of Schedule 1 to the 1995 Regulations, those records shall be sent to the Health Board by the succeeding contractor—

- (a) in a case in which the relevant medical practitioner was informed of the death by the Health Board, within 14 days of the date on which he was so informed; or
- (b) in any other case, within one month of the date on which the relevant medical practitioner learned of the death.

Rights of entry

19.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a written request for inspection of his practice premises under paragraph 23(1)(b) of Schedule 1 to the 1995 Regulations but, on 31st March 2004, no inspection had yet taken place pursuant to that request, the request shall, on 1st April 2004, be regarded as notice of an intended entry to the succeeding contractor under—

- (a) the term of its general medical services contract which gives effect to paragraph 81 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

⁽¹⁰⁾ Paragraph 29(c) of Schedule 1 was added by [S.S.I. 2003/443](#).

⁽¹¹⁾ Paragraph 32 of Schedule 1 was substituted by [S.S.I. 1999/1057](#).

(2) In determining whether reasonable notice was given of any entry to the practice premises following a notice referred to in paragraph (1), regard shall be had to the date on which the request under paragraph 23(1)(b) of Schedule 1 to the 1995 Regulations was made.

Refusal of approval of premises under paragraph 24 of Schedule 1 to the 1995 Regulations

20.—(1) Where, on or before 31st March 2004 a Health Board had notified a relevant medical practitioner under paragraph 24(12) of Schedule 1 to the 1995 Regulations of its refusal of an application made under paragraph 24(1) of Schedule 1 to the 1995 Regulations in relation to any place at which he was to be available paragraphs (2) and (3) shall apply.

(2) Where, on 31st March 2004, the time for appealing against the refusal specified in paragraph 24(13) of Schedule 1 to the 1995 Regulations had not expired and no appeal had yet been made, the time for appealing shall continue as if paragraphs 24 of that Schedule had not been revoked.

(3) Where—

(a) on 31st March 2004, the relevant medical practitioner had appealed in writing against that refusal under paragraph 24(13) of that Schedule but the appeal had not been determined or withdrawn; or

(b) after 31st March 2004, an appeal is made pursuant to paragraph (2),

that appeal shall be dealt with or continue to be dealt with as if paragraph 24 of Schedule 1 to the 1995 Regulations had not been revoked.

(4) Where an appeal dealt with under paragraph (3) is successful, the Health Board shall agree to a variation of the contract which it holds with the succeeding contractor which has the effect of adding to the list of practice premises under that contract the premises approved as a result of the appeal.

(5) A variation agreed by the Health Board pursuant to paragraph (4) shall have effect—

(a) from a date no later than 28 days after the date on which the outcome of the appeal was notified to the relevant medical practitioner; and

(b) only if it is in writing and signed by or on behalf of the Health Board and the succeeding contractor.

Investigation of outstanding complaints

21.—(1) Where, on 31st March 2004—

(a) a complaint had been made under paragraph 12A of Schedule 1 to the 1995 Regulations⁽¹²⁾ by or on behalf of a patient or former patient of a relevant medical practitioner; and

(b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 12A, had not concluded,

that complaint must, from 1st April 2004, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 12A had not been revoked.

(2) Where, on 31st March 2004—

(a) a complaint had been made under paragraph 12A of Schedule 1 to the 1995 Regulations by or on behalf of a patient or former patient of a medical practitioner to whom there is no succeeding contractor; and

(b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 12A, had not concluded,

(12) Paragraph 12A of Schedule 1 was added by [S.I. 1996/842](#) and amended by [S.I. 1999/749](#).

that complaint must be investigated by a person specified in paragraph (3) as if paragraph 12A had not been revoked.

- (3) The person referred to in paragraph (2) is—
 - (a) any person who was the former partner of the medical practitioner on whose list of patients the complainant was included, if that person meets the requirements in paragraph (4);
 - (b) if the person specified in paragraph (a) satisfies the Health Board on whose medical list the former partner was included for the purposes of providing general medical services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by that person, that Health Board; or
 - (c) in any other case, the Health Board on whose medical list the medical practitioner was included for the purposes of providing general medical services to the complainant.
- (4) The requirements referred to in paragraph (3) are that the former partner—
 - (a) has entered into a default contract or a general medical services contract as an individual medical practitioner with the Health Board on whose medical list the former partner was included for the purposes of providing general medical services to the complainant;
 - (b) is a partner in a partnership which has entered into a default contract or a general medical services contract with that Health Board; or
 - (c) is a legal and beneficial shareholder in a company which has entered into a general medical services contract with that Health Board.
- (5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one general medical services contractor or default contractor, the contractors concerned shall—
 - (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
 - (b) if they are unable to reach agreement, refer the matter to the Health Board on whose medical list their former partner was included for the purposes of providing general medical services to the complainant and that Health Board shall investigate the complaint itself.
- (6) Where, under this article, a complaint falls to be investigated by a Health Board the investigation shall be carried out in accordance with the directions on dealing with complaints about family health services practitioners given by the Secretary of State under section 2(5) of the 1978 Act on 26th March 1996⁽¹³⁾.

Complaints relating to general medical services made after 31st March 2004

- 22.** The complaints procedure established and operated by a succeeding contractor under—
- (a) the term of its general medical services contract which gives effect to paragraph 82 of Schedule 5 to the 2004 Regulations; or
 - (b) the equivalent term of the default contract,

shall apply to any complaint which a patient or former patient of the relevant medical practitioner to whom it is a succeeding contractor could have made (but did not make) on or before 31st March 2004 under paragraph 12A of Schedule 1 to the 1995 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract.

⁽¹³⁾ A copy of these directions can be obtained from the Scottish Executive Health Department.

Reports to a medical officer

23.—(1) Where, on or before 31st March 2004, a relevant medical practitioner had received a request for information or an inquiry from a medical officer (or an officer of the Department for Work and Pensions on his behalf or at his direction) under paragraph 34 of Schedule 1 to the 1995 Regulations⁽¹⁴⁾ but, on 31st March 2004, he had not yet responded to that request or inquiry, the succeeding contractor shall respond as if the request or inquiry had been made under—

- (a) the term of its general medical services contract which gives effect to paragraph 72 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of its default contract.

(2) In this article, “medical officer” means a medical practitioner who is—

- (a) employed or engaged by the Department for Work and Pensions; or
- (b) provided by an organisation in pursuance of a contract entered into with the Secretary of State for Work and Pensions.

Arrangements with organisations providing deputy doctors

24.—(1) Where—

- (a) on 31st March 2004—
 - (i) a Health Board had, on or before that date, issued a remedial notice to a relevant medical practitioner under paragraph 19(7) of Schedule 1 to the 1995 Regulations⁽¹⁵⁾; and
 - (ii) the date specified in the notice as the one before which remedial action should be taken had not yet been reached; and
- (b) on 1st April 2004, the arrangements covered by the remedial notice are continuing in the form of a sub-contract with the succeeding contractor,

the remedial notice issued under paragraph 19(7) of Schedule 1 to the 1997 Regulations shall be regarded as a remedial notice served in the same terms on the succeeding contractor on 1st April 2004 under the term of its general medical services contract which gives effect to paragraph 103(1) of Schedule 5 to the 2004 Regulations (or under the equivalent term of its default contract).

(2) A remedial notice deemed to have been served on the succeeding contractor pursuant to paragraph (1) shall not count as a remedial notice for the purposes of the term of the general medical services contract which gives effect to paragraph 103(6) of Schedule 5 to the 2004 Regulations (or for the purposes of the equivalent term of the default contract).

(3) In this article, “remedial notice” means, in relation to a notice issued before 1st April 2004, a notice issued under paragraph 19(7) of Schedule 1 to the 1995 Regulations and, in relation to a notice issued after that date, a notice served under the term of the general medical services contract which gives effect to paragraph 103(1) of Schedule 5 to the 2004 Regulations (or under the equivalent term of the default contract).

Practice leaflet

25.—(1) This article applies where a relevant medical practitioner had compiled a practice leaflet which met the requirements of paragraph 12 of Schedule 1 to the 1995 Regulations and that leaflet was, on 31st March 2004, available to patients on his list.

⁽¹⁴⁾ Paragraph 34 of Schedule 1 was substituted by [S.I. 1998/660](#).

⁽¹⁵⁾ Paragraph 19 of Schedule 1 was amended by [S.I. 1995/3199](#), [S.I. 1998/660](#), and [S.S.I. 2003/64](#) and was substituted by [S.I. 1997/943](#).

(2) In the circumstances to which this article applies, the practice leaflet made available to patients by—

- (a) the succeeding contractor; or
- (b) a general medical services contractor who enters into a general medical services contract before 31st July 2004 which takes effect immediately after its default contract with the same Health Board ceases to have effect,

need not, until 1st August 2004, include all the information specified in the term of the general medical services contract which gives effect to Schedule 8 to the 2004 Regulations (or in the equivalent term of the default contract) provided that, from the date of commencement of the contract until the practice leaflet does so comply, the general medical services contractor or the default contractor makes available to patients in written form the information specified in paragraph (3).

(3) The information referred to in paragraph (2) is—

- (a) the services available under the general medical services contract or the default contract;
- (b) the opening hours of the practice premises and the method of obtaining access to services throughout the core hours;
- (c) the arrangements for services in the out of hours period (whether or not provided by the general medical services contractor or the default contractor) and how the patient may contact such services; and
- (d) if the services in sub-paragraph (c) are not provided by the general medical services contractor or the default contractor the fact that the Health Board which is a party to the general medical services contract or the default contract is responsible for commissioning the services and the name address and telephone number of the Health Board.

(4) In this article, “practice leaflet”—

- (a) in relation to the period before 1st April 2004, has the meaning given in paragraph 12 of Schedule 1 to the 1995 Regulations; and
- (b) in relation to the period from 1st April 2004 has the meaning given in regulation 2(1) of the 2004 Regulations (interpretation).

Medical examination of medical practitioners

26. Where, on or before 31st March 2004—

- (a) a Health Board had required a relevant medical practitioner to be medically examined under regulation 24(6) of the 1995 Regulations (**16**); and
- (b) that medical examination had not yet taken place,

the requirement shall, on 1st April 2004, unless the Health Board notifies him otherwise in writing, be regarded as a request made to that medical practitioner for him to be medically examined on the grounds that he is incapable of adequately providing services under the succeeding contract and arrangements for the medical examination shall, with the consent of the medical practitioner, continue to be made by the Area Medical Committee for the area of the Health Board which is a party to the succeeding contract, pursuant to the function conferred on that Committee by regulation 27 of the 2004 Regulations.

Patients not seen within three years

27. The term of a general medical services contract which gives effect to paragraph 5 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if

(16) Regulation 24 was amended by S.I. 1995/3199, S.I. 1998/660 and S.S.I. 2003/443.

the reference to a consultation or clinic provided by the general medical services contractor (or the default contractor) included a reference to a consultation or clinic provided by—

- (a) the relevant medical practitioner in relation to whom it is a succeeding contractor; or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, the contractor who held that default contract.

Patients aged 75 years and over

28. The term of a general medical services contract which gives effect to paragraph 6 of Schedule 5 to the 2004 Regulations (or the equivalent term of a default contract) shall be read as if the reference to participating in a consultation under that term included a reference to participating in a consultation under—

- (a) paragraph 16 of Schedule 1 to the 1995 Regulations (**17**); or
- (b) in the case of a general medical services contract which takes effect immediately after a default contract between the same parties ceases to have effect, under the term of the default contract which was equivalent to paragraph 6 of Schedule 5 to the 2004 Regulations.

Arrangements for GP Registrars

29.—(1) Where, before 1st April 2005, a general medical services contractor or a default contractor employs a GP Registrar for the purpose of being trained by a GP Trainer, the requirement for the general medical services contractor or the default contractor to have the agreement of the Scottish Ministers to that employment in—

- (a) the term of the general medical services contract which gives effect to paragraph 57 of Schedule 5 to the 2004 Regulations; or
- (b) the equivalent term of the default contract,

shall not apply.

(2) In this article, “GP Registrar” and “GP Trainer” have the same meaning as in regulation 2(1) of the 2004 Regulations.

Refund of fees paid under paragraph 10(2) of Schedule 1 to the 1995 Regulations

30. Where, on 31st March 2004 a patient had paid a fee to a medical practitioner under paragraph 10(2) of Schedule 1 to the 1995 Regulations but—

- (a) the period for applying for a refund of that fee under paragraph 10(3) of that Schedule had not yet expired; or
- (b) an application for refund of the fee had been made but not yet determined,

the period for applying for a refund and the powers of the Health Board in dealing with any application for a refund shall continue as if paragraph 10(3) of that Schedule had not been revoked.

Annual reports

31. Notwithstanding the revocation of the 1995 Regulations, any medical practitioner to whom paragraph 35 of Schedule 1 to those Regulations (annual reports)(**18**) applied shall, by 30th June

(17) Paragraph 16 of Schedule 1 was amended by [S.I. 1998/660](#).

(18) Paragraph 35 was amended by [S.I. 1997/943](#).

2004, provide, either individually or as a member of a partnership, to the Health Board on whose medical list he appeared on 31st March 2004, an annual report in respect of the period of 12 months ending on 31st March 2004 which includes the number of complaints received in accordance with paragraph 12A of Schedule 1 to the 1995 Regulations(19).

Permission for use of facilities in private practice under section 64 of the 1978 Act

32. Where, on 31st March 2004, a relevant medical practitioner had the permission under section 64 of the 1978 Act (**20**) (permission for use of facilities in private practice), that permission shall be regarded, from 1st April 2004, as permission granted under that section to the succeeding contractor.

Recovery of overpayments

33.—(1) Where, on or before 31st March 2004, a medical practitioner had admitted an overpayment drawn to its attention by a Health Board under regulation 36(2) of the 1995 Regulations(**21**) (claims and overpayments) but the overpayment had not been recovered, the amount overpaid shall, notwithstanding the repeal of the 1995 Regulations, continue to be recoverable as set out in regulation 36(2) of the 1995 Regulations and shall be treated as a debt owed by that medical practitioner to the Health Board.

(2) Notwithstanding the repeal of the 1995 Regulations, where the Agency considers that a payment has been made to a medical practitioner under the Statement of Fees and Allowances when it was not due and the Health Board has not drawn that alleged overpayment to the attention of the medical practitioner on or before 31st March 2004, the Health Board may draw that overpayment to the attention of the medical practitioner and—

- (a) where the overpayment is admitted by the medical practitioner it may be recovered from the medical practitioner as set out in regulation 36(2) of the 1995 Regulations and shall be treated as a debt owed by that medical practitioner to the Health Board; and
- (b) where the overpayment is not admitted by the medical practitioner, the matter may be referred under regulation 3(7) of the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**22**), but subject to the provisions of Part 7 of this Order, for investigation.

“the Agency” means the body constituted under section 10 of the 1978 Act; and

“Statement of Fees and Allowances” means the statement determined and published by the Scottish Ministers under regulation 35 of the 1995 Regulations(**23**), as that statement had effect on 31st March 2004.

In this article—

(19) Paragraph 12A of Schedule 1 was added by S.I. 1996/842 and amended by S.I. 1999/749.

(20) Section 64 was amended by the Health and Social Security Act 1984 c. 48, Schedule 8, Part 1.

(21) Regulation 36 was amended by S.I. 1998/1600, S.I. 1999/749, S.S.I. 1999/54.

(22) S.I. 1992/434.

(23) Regulation 35 was amended by S.I. 1998/1600, S.I. 1999/749 and S.S.I. 1999/54.