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SCOTTISH STATUTORY INSTRUMENTS

2004 No. 215

NATIONAL HEALTH SERVICE

The National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2004

<i>Made</i>	- - - -	<i>13th May 2004</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>14th May 2004</i>
<i>Coming into force</i>	- -	<i>7th June 2004</i>

The Scottish Ministers, in exercise of the powers conferred by sections 17K, 17N, 17O, 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:

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2004 and shall come into force on 7th June 2004.

Amendment of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

2.—(1) The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(2) shall be amended as provided in this regulation.

(2) In regulation 2 (interpretation)–

- (a) in the definition of “NHS contract” for “(5)” substitute “(4)”; and
- (b) in paragraph (f) of the definition of “patient” for “Schedule 5” substitute “Schedule 6”.

(3) In regulation 10 (health service body status) –

- (a) in paragraph (2)–

(1) 1978 c. 29. Sections 17K, 17N and 17O were inserted by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), section 4; section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) defines “prescribed” and “regulations”. 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) [S.S.I. 2004/115](#).

- (i) for “(5)” substitute “(4)”; and
 - (ii) for “paragraph (4)” substitute “paragraph (3)”; and
 - (b) in paragraph (4) for “(4)” substitute “(3)”.
- (4) In regulation 15(8) (essential services) before “necessary” insert “immediately”.
- (5) In regulation 17 (opt outs of additional and out of hours services)–
- (a) in paragraph (1), (2), (3) and (4) for “3(12) to (17)” substitute “3(14) to (16)” in each place where it occurs; and
 - (b) in paragraph (2), (3) and (4) for “4(8)” substitute “4(9)” in each place where it occurs.
- (6) In Schedule 2 (opt outs of additional and out of hours services)–
- (a) in paragraph 3(1) (permanent opt outs) in the definition of “A day” after “opt” in the second place where it occurs insert “out”; and
 - (b) in paragraph 4(9) (out of hour opt outs where the opt out notice is served after 30th September 2004) for “permanent” in the second place where it occurs substitute “preliminary”.
- (7) In Schedule 5 (other contractual terms)–
- (a) in paragraph 41(4)(g) (restrictions on prescribing by supplementary prescribers) after “it” insert “is”;
 - (b) in paragraph 74(1)(b) (notifications to the Health Board) for “101, 102 or 103(1)” substitute “99, 100 or 101(1)”;
 - (c) in paragraph 101(2)(j)(i) (other grounds for termination by the Health Board) after “awarded” insert “or”;
 - (d) in paragraph 107(1) (termination and the NHS dispute resolution procedure) for “it” substitute “is”; and
 - (e) in paragraph 114(5)(b) (gifts) for “his” substitute “the patient's”.
- (8) In paragraph 18 of Schedule 8 (information to be included in practice leaflets) for “28” substitute “26”.

St. Andrew’s House, Edinburgh
13th May 2004

MALCOLM CHISHOLM
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (“the principal Regulations”), which set out the framework for general medical services contracts under section 17J of the National Health Service (Scotland) Act 1978.

These Regulations—

- (a) correct incorrect references to the provisions pursuant to which a contractor may request to be, or be, regarded as a health service body (regulation 2(2)(a) and (3));
- (b) correct the definition of “patient” in the principal Regulations to ensure that persons for whom the contractor is responsible under certain arrangements for the provision of out of hours services are included (regulation 2(2)(b));
- (c) clarify that the primary medical services which must be provided under regulation 15(8) of the principal Regulations are for the immediately necessary treatment of certain persons for certain periods (regulation 2(4));
- (d) correct references to certain provisions in the principal Regulations relating to opt outs of additional and out of hours services that need not be included in general medical services contracts, but which have effect in relation to the matters they deal with (regulation 2(5));
- (e) correct an incorrect reference in the principal Regulations to a “permanent opt out notice” to be a reference to a “preliminary opt out notice” (regulation 2(6)(b));
- (f) correct references to the provisions under which circumstances giving rise to a Health Board’s right to terminate a general medical services contract must be notified to the Health Board by a contractor (regulation 2(7)(b));
- (g) clarify that where certain services are not provided by a contractor, the information as to which Health Board that is responsible for providing those services shall be included in a practice leaflet (regulation 2(8)); and
- (h) correct other minor drafting errors (regulation 2(6)(a), 2(7)(a), (c), (d) and (e)).