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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 207**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2007**

<i>Made</i>	- - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th March 2007</i>
<i>Coming into force</i>	- -	<i>1st April 2007</i>

The Scottish Ministers, in exercise of the powers conferred by sections 17P, 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 (Primary Medical Services Performers Lists) (Scotland) Amendment Regulations 2007 and shall come into force on 1st April 2007.

**Amendment of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004**

2.—(1) The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004(2) are amended as follows.

(2) In regulation 2 (interpretation)(3)–

(a) omit the definition of “the 2001 Regulations” and after the definition of “the 2003 Order” insert–

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(1) 1978 c. 29; Section 17P was inserted by the [Primary Medical Services \(Scotland\) Act 2004 \(asp 1\)](#), section 5(2) and extended by the Health and Medicines Act 1988 (c. 49), section 17 (as amended by [S.S.I. 2004/167](#)); section 105(7), which contains provisions relevant to the making of these 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) [S.S.I. 2004/114](#), as amended by [S.S.I. 2004/216](#), [2005/333](#) and [2006/136](#).

(3) Regulation 2 was amended by [S.S.I. 2005/333](#) and [2006/136](#).

- “the 2007 Regulations” means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2007(4);”;
- (b) omit the definitions of–
- (i) “first condition for disqualification”;
  - (ii) “second condition for disqualification”; and
  - (iii) “third condition for disqualification”;
- (c) after the definition of “conditional disqualification” insert–
- ““condition for disqualification” means–
- (i) the first condition for disqualification set out in section 29(6) of the Act(5);
  - (ii) the second condition for disqualification set out in section 29(7) of the Act; or
  - (iii) the third condition for disqualification set out in section 29(7A) of the Act(6);”;
- and
- (d) after the definition of “pharmacist” insert–
- ““the Postgraduate Medical Education and Training Board” means the body corporate established by article 3(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(7);
- “post-registration programme” means a programme of post-registration supervised clinical practice;”.
- (3) In regulation 3 (primary medical services performers)–
- (a) in paragraph (1), for “(2) and (3)”, substitute “(2) to (3)”; and
  - (b) after paragraph (2) insert–
- “(2A) A medical practitioner who falls within paragraph (2B) may perform primary medical services in the area of a Health Board, despite not being included in the primary medical services performers list of that Health Board, but only in so far as the performance of those services constitutes part of a post registration programme approved by the Postgraduate Medical Education and Training Board.
- (2B) A medical practitioner falls within this paragraph if the medical practitioner–
- (a) is not a GP Registrar;
  - (b) is undertaking a post registration programme;
  - (c) has notified the Health Board that he or she will be undertaking part or all of a post registration programme in its area at least 24 hours before commencing any part of that programme; and
  - (d) has, with that notification, provided the Health Board with evidence sufficient for it to satisfy itself that the medical practitioner is undergoing a post registration programme.”.

(4) In regulation 7(4) (decisions and grounds for refusal and deferral)(8) before “Act” insert “the”.

(5) In paragraph 3(f) of Schedule 1 (information, declarations, and undertakings to be included in an application for inclusion in a primary medical services performers' list)–

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(4) S.S.I. 2007/139.

(5) Section 29 was substituted by the Health Act 1999 (c. 8), section 58(1). Subsection (6) was amended by the Community Care and Health (Scotland) Act 2002 (asp 5), schedule 2, paragraph 2(4), the Primary Medical Services (Scotland) Act 2004 (asp 1), section 5(3) and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), section 26(1) and (2).

(6) Subsection (7A) was inserted by the Smoking, Health and Social Care (Scotland) Act 2005, section 26(1) and (2).

(7) S.I.2003/1250.

(8) Regulation 7(4) was amended by S.S.I. 2006/136.

- (a) omit “on a prescription form”; and
- (b) for “2001”, at both places where it occurs, substitute “2007”.

St Andrew’s House,  
Edinburgh  
6th March 2007

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Performers Lists) Regulations 2004 (“the Regulations”).

Regulation 2(2) amends regulation 2 of the Regulations. The Regulation substitutes the definition of “the 2007 Regulations” for “the 2001 Regulations” as a consequence of the consolidation of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations; deletes the definitions of “first condition for disqualification”, “second condition for disqualification” and “third condition for disqualification” and instead inserts a definition for “condition for disqualification” and inserts definitions of “the Postgraduate Medical Education and Training Board” and “post-registration programme”.

Regulation 2(3) amends regulation 3 of the Regulations to allow a medical practitioner who is not a GP Registrar and whose name is not included in a primary medical services performers list of a Health Board to perform primary medical services but only in so far as the performance of those services constitutes part of a post-registration programme approved by the Postgraduate Medical Educational Training Board.

Regulation 2(4) amends regulation 7(4) of the Regulations by inserting “the” before “Act”.

Regulation 2(5)(a) amends paragraph 3(f) of Schedule 1 to the Regulations to provide that a declaration, claiming either charge exemption or remission, does not require to be made on a prescription form.

Regulation 2(5)(b) also amends paragraph 3(f) of Schedule 1 to the Regulations as a consequence of the consolidation of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations.