

2009 No. 308

NATIONAL HEALTH SERVICE

**The National Health Service (Discipline Committees) (Scotland)
Amendment Regulations 2009**

<i>Made</i>	- - - -	<i>3rd September 2009</i>
<i>Laid before the Scottish Parliament</i>		<i>7th September 2009</i>
<i>Coming into force</i>	- -	<i>30th September 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 17P, 25(2), 26(2), 27(2), 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(a) and section 17 of the Health and Medicines Act 1988(b) and all other powers enabling them to do so.

In accordance with the provisions of Schedule 7 of the Tribunals Courts and Enforcement Act 2007(c) they have consulted with the Administrative Justice and Tribunals Council and the Scottish Committee.

Citation and commencement

1. These regulations may be cited as the National Health Service (Discipline Committees) (Scotland) Amendment Regulations 2009 and come into force on 30th September 2009.

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- (a) 1978 (c.29); section 17P was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1) (“the 2004 Act”), section 5(2); section 25(2) was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 40(2) and Schedule 9, paragraph 19, the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”), Schedule 2, paragraph 43 and Schedule 3, and the Health Act 1999 (c.8) (“the 1999 Act”), section 56; section 26(2) was substituted by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), (“the 2005 Act”), section 19, section 27(2) was substituted by the National Health Service (Amendment) Act 1986 (c.66), section 3, and amended by the 1990 Act, Schedule 9, paragraph 19; section 105(7) which contains provisions relevant to the making of Regulations, 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 1999 Act, 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).
- (b) 1988 (c.49); section 17 was amended by S.I. 2004/167.
- (c) 2007 (c.15) paragraph 24 of Schedule 7 provides for such consultation for listed tribunals. A discipline committee constituted in accordance with regulation 3 of the National Health Service (Discipline Committees) (Scotland) Regulations 2006 (S.S.I. 2006/330) is a listed tribunal in terms of the definition in paragraph 25(2) of that Schedule by virtue of S.S.I. 2007/436.

Amendment of the National Health Service (Discipline Committees) (Scotland) Regulations 2006

2. The National Health Service (Discipline Committees) (Scotland) Regulations 2006 (the “principal regulations”)(a), are amended as follows—

- (a) in paragraph 6(2) of Schedule 1 (term of office of any member or deputy member of any discipline committee) for “one year” substitute “three years”.
- (b) in paragraph 1(1)(a) of Schedule 2 (obligation to notify referred practitioner) for “2” substitute “5”.

Transitional provisions

3. The amendment to paragraph 1(1)(a) of Schedule 2 to the principal regulations shall not affect any matter already referred to the appropriate discipline committee prior to the coming into force of these regulations.

St Andrew’s House,
Edinburgh
3rd September 2009

SHONA ROBISON
Authorised to sign by the Scottish Ministers

(a) S.S.I. 2006/330.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the National Health Service (Discipline Committees) (Scotland) Regulations 2006 (S.S.I. 2006/330) (the “2006 Regulations”).

Regulation 2 amends paragraph 6(2) of Schedule 1 of the 2006 Regulations to provide that the limitation on the term of office of any member or deputy member of any discipline committee is increased from 1 year to 3.

Regulation 2 also amends paragraph 1(1)(a) of Schedule 2 of the 2006 Regulations to provide that the period of time within which the health board must notify a practitioner of their referral to a discipline committee has been increased from 2 working days to 5 working days.

Regulation 3 provides that the amendment to paragraph 1(1)(a) of Schedule 2 shall not affect the notification period that relates to a referral where the referral took place before the date of the commencement of these Regulations.

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