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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 28**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Appointment of Consultants) (Scotland) Amendment Regulations 2010**

*Made* - - - - *4th February 2010*  
*Laid before the Scottish*  
*Parliament* - - - - *5th February 2010*  
*Coming into force* - - *1st April 2010*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 105(7) and 108(1) of, and paragraph 6 of Schedule 1 and paragraph 8 of Schedule 5 to, the National Health Service (Scotland) Act 1978(1) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (Appointment of Consultants) (Scotland) Amendment Regulations 2010 and come into force on 1st April 2010.

**Amendment of the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009**

2. After regulation 3 (appointments to which the regulations apply) of the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009(2) insert—

**“Registration requirements**

**3A.—**(1) Subject to paragraph (2), a person may not take up appointment to any consultant post unless—

(a) that person is either a medical practitioner or a dental practitioner, and

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(1) 1978 c.29, 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) 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, so far as exercisable within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(2) S.S.I. 2009/166.

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*Status: This is the original version (as it was originally made).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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(b) in the case of an appointment of a medical practitioner, that person's name is included in the Specialist Register<sup>(3)</sup>.

(2) Paragraph (1)(b) does not apply to any person who held a post as a consultant in oral and maxillo-facial surgery in the health service immediately before 1st January 1997.

(3) For the purposes of paragraph (2), "the health service" means the health services defined in—

(a) section 108(1) of the National Health Service (Scotland) Act 1978<sup>(4)</sup>,

(b) section 275(1) of the National Health Service Act 2006<sup>(5)</sup>, and

(c) article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(6)</sup>."

St Andrew's House,  
Edinburgh  
4th February 2010

*NICOLA STURGEON*  
A member of the Scottish Executive

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(3) "Specialist Register" is defined in regulation 2(1) of the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009 (S.S.I. 2009/166).

(4) 1978 c.29. There are amendments to section 108(1) but they are not relevant to these Regulations.

(5) 2006 c.41. There are amendments to section 275(1) but they are not relevant to these Regulations.

(6) S.I. 1972/1265 (N.I.14). There are amendments to article 2(2) but they are not relevant to these Regulations.

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Appointment of Consultants) (Scotland) Regulations 2009 (“the 2009 Regulations”). Regulation 3A(1) makes it a requirement that a consultant must be on the Specialist Register, as defined in the 2009 Regulations, before they may take up an appointment as a consultant. Regulation 3A(2) exempts persons who held a post as a consultant in the health services of England, Wales, Northern Ireland or Scotland in oral and maxillo-facial surgery prior to 1st January 1997 from that requirement.