
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 the National Health Service (Scotland) Act 1978 (“the Act”). The amendments are necessary following the commencement of Part 2 of the Tobacco and Primary Medical Services (Scotland) Act 2010 which makes provision for the new eligibility criteria for persons contracting with Health Boards to provide primary medical services.

Regulation 3 amends regulation 2 of the principal Regulations by amending the definition of “disqualified”, inserting a definition of “conditional disqualification”, omitting the definitions of “local or national disqualification” and “national disqualification” and amending the definitions “list” and “health care professional”.

Regulations 4, 5 and 6 amend regulation 3, 4 and 5 of the principal Regulations to take into account the new eligibility criteria.

Regulation 7 inserts regulation 5A to the principal Regulations, to make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of primary medical services (“the involvement criteria”). Regulation 5A provides that the involvement criteria require that a person performs or is engaged, or will perform or be engaged in the provision of primary medical services for no less than a total of 10 hours in each week for the duration of the contract. Regulation 5A also sets out the periods of time which are to be disregarded for the purposes of determining whether a person fulfils the involvement criteria.

Regulation 8 amends regulation 6 of the principal Regulations to take account of the new eligibility criteria.

Regulation 9 inserts a new regulation 8 in order to clarify the conditions which apply in the case of contracts entered into prior to 22nd December 2010 and to clarify that those conditions apply for the duration of the contract.

Regulations 10, 11, 12(2), (3) and (4) make technical amendments to regulations 21 and 27 and paragraphs 20, 21 and 58 of Schedule 5 of the principal Regulations in order to take account of the new eligibility criteria.

Regulation 12(5) amends paragraph 62 of Schedule 5 regarding the sub-contracting of clinical matters in order to provide that where a contractor sub-contracts any of its rights or duties under the contract, the required notification to the Health Board must include a statement as to whether the sub-contractor, if it were a contractor, would have sufficient involvement in patient care in terms of section 17L(3) and (4) of the Act. The amendment also provides that a Health Board may serve a notice of objection to a sub-contract on the grounds that the sub-contractor, if it were a contractor, would not have sufficient involvement in patient care in terms of section 17L(3) and (4) of the Act.

Regulation 12(6) amends paragraph 73 of Schedule 5 to provide that the contractor shall include in the annual return a statement that the contractor meets the conditions of section 17L(3) and (4) of the Act.

Regulation 12(7) amends the cross-references in paragraph 74 of Schedule 5.

Regulation 12(8) amends paragraph 77 so that it only applies to contracts entered into prior to 22nd December 2010.

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

Regulation 12(9) inserts a new paragraph 77A to provide for new notice provisions specific to a contract with a company which was entered into after 22nd December 2010 and which take into account the new eligibility criteria.

Regulation 12(10) amends paragraph 78 of Schedule 5 to make a distinction between the notice provision requirements which apply to contracts with partnerships entered into prior to 22nd December 2010 and those entered into on or after 22nd December 2010.

Regulation 12(11) inserts a new paragraph 78A of Schedule 5 to make provision for notice provisions requirements specific to contracts with persons practising in a limited liability partnership.

Regulation 12(12), (13), (14), (15) and (16) amend the termination provisions of Schedule 5 of the principal Regulations in order to make a distinction between the application of those provisions to those contracts entered into prior to and those entered into on or after the commencement of the new eligibility criteria.

Regulation 12(17), (18), (19), (20) and (21) and regulation 13 make further amendments to Schedule 5 and Schedule 8 respectively to take into account the new eligibility criteria and to amend cross-references.

A Business and Regulatory Impact Assessment has been prepared and placed in the Scottish Parliament Information Centre. Copies may be obtained from the Scottish Government Health Directorate, St Andrew's House, Regent Road, Edinburgh, EH1 3DG, and online at www.legislation.gov.uk.