

EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACTS) (SCOTLAND) AMENDMENT REGULATIONS 2012

SSI 2012/9

1. The above instrument was made in exercise of the powers conferred by sections 17N, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978 (“the Act”). The instrument is subject to the negative procedure.

Background

2. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (“the 2004 Contracts Regulations”) set out the framework for the provision of primary medical services under general medical services contracts between Health Boards and contractors. Part 2 of the Tobacco and Primary Medical Services (Scotland) Act 2010 (“the 2010 Act”) introduced new eligibility criteria for persons contracting or entering into agreements with Health Boards to provide primary medical services. These eligibility criteria were incorporated into the 2004 Contracts Regulations by The National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2010 (“the 2010 Contracts Regulations”).

Policy Objectives

3. The purpose of the instrument is to amend the current termination provisions in the 2004 Contracts Regulations. Paragraphs 101 and 101A of Schedule 5 to the 2004 Regulations currently provide that a Health Board may terminate a contract where the contractor (or partner in or member of the contractor) has been suspended. The policy intention, however, is that the contractual relationship between the Board and the contractor should be preserved despite any suspension, albeit that the contractor (or, where relevant, the partner in or member of the contractor) should no longer provide primary medical services under the contract. It is therefore necessary to amend paragraphs 101 and 101A in Schedule 5.
4. It is also necessary to amend paragraph 99A of Schedule 5 to the 2004 Contracts Regulations, in order to amend an incorrect cross-reference which was introduced by the 2010 Contracts Regulations. Paragraph 99A applies to contracts entered into on or after 22 December 2010. Sub-paragraph (2) currently provides that a Health Board must terminate a contract if the contractor no longer satisfies the conditions in regulation 4(1), (2), (3) and (4), as appropriate, depending on whether the contractor is a sole contractor, partnership, limited liability partnership or company. Given the amendments to regulation 4, also introduced by the 2010 Contracts Regulations, the cross-reference in paragraph 99A is incorrect and does not reflect the policy.

5. Paragraph 99A is therefore being amended so that it effectively reflects the termination provisions in paragraph 99 of Schedule 5 (which applies to contracts entered into before 22 December 2010).
6. Health Boards have not sought to rely on these termination provisions since the introduction of the 2010 Contracts Regulations, so there will be no change in practice as a consequence of this instrument.

Consultation

7. Consultation was undertaken on these amendment regulations with the Scottish General Practitioners Committee (SGPC) of the British Medical Association who had no comments.

Financial Effects

8. The amendments will have no financial effects.



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17 January 2012