
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 67

**The National Health Service (Primary Medical Services
Section 17C Agreements) (Scotland) Regulations 2018**

PART 3

HEALTH SERVICE BODY STATUS

Health service body status

10.—(1) Where a proposed provider elects, in a written notice served on the Health Board at any time prior to the agreement being entered into, to be treated as a health service body for the purposes of section 17A of the Act (NHS contracts)(1), the proposed provider will be so treated from the date on which the agreement is made.

(2) If, pursuant to paragraph (1) or (5), a provider is to be treated as a health service body, it will not be treated as a health service body to the extent that—

- (a) the nature of, or any rights or liabilities arising under, any other arrangement or proposed arrangement with a health service body entered into or to be entered into by a provider is affected; and
- (b) a matter referred to the Scottish Ministers for the purposes of section 17A(4) of the Act must be determined under the provisions of section 17A.

(3) Where an agreement is made with a provider, and that provider is to be treated as a health service body in accordance with paragraph (1) or (5), the provider will, subject to paragraph (4) continue to be treated as a health service body for the purposes of section 17A of the Act, for as long as that agreement continues irrespective of any change in—

- (a) where a partnership is a party to the agreement, the membership of the partnership; and
- (b) the parties to the agreement comprising the provider.

(4) A provider may at any time request in writing to be treated or cease to be treated as a health service body for the purposes of section 17A of the Act, and if the provider does so—

- (a) the procedure in paragraph 61(1) of schedule 1 applies; and
- (b) the Health Board must agree to the variation.

(5) If the provider makes a request under paragraph (4), the provider must—

- (a) be treated; or
- (b) subject to paragraph (7) cease to be treated,

(1) Section 17A was inserted into the Act by section 30 of the National Health Service and Community Care Act 1990 and amended by paragraph 102 of schedule 1 of the Health Authorities Act 1995 (c.17), paragraph 36 of schedule 2 of the National Health Service (Primary Care) Act 1997 (c.46), paragraph 46 of schedule 4 and paragraph 1 of schedule 5 of the Health Act 1999 (c.8), paragraph 1 of schedule 14 of the Health and Social Care (Community Health and Standards) Act 2003 (c.43), paragraph 8 of schedule 17 of the Public Services Reform (Scotland) Act 2010 (asp 8), and paragraph 2 of schedule 21 of the Health and Social Care Act 2012 (c.7).

as a health service body for the purposes of section 17A of the Act from the date that variation is to take effect pursuant to paragraph 61(1) of schedule 1.

(6) Subject to paragraph (7), a provider ceases to be treated as a health service body for the purposes of section 17A of the Act if the agreement terminates.

(7) Where a provider ceases to be treated as a health service body pursuant to—

- (a) paragraph (5), the provider will, if the provider or the Health Board has referred any matter to the Scottish Ministers for the purposes of section 17A(4) of the Act before the provider ceases to be a health service body, be bound by the determination of the adjudicator;
- (b) paragraph (6), the provider will continue to be treated as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced—
 - (i) before the termination of the agreement; or
 - (ii) after the termination of the agreement, whether in connection with or arising out of the termination of the agreement or otherwise,

for which purpose the provider will cease to be treated as such a body on the conclusion of that procedure.