
STATUTORY INSTRUMENTS

1994 No. 3038 (S.157)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1994

Made - - - - *25th November 1994*
Laid before Parliament *9th December 1994*
Coming into force - - *1st January 1995*

The Secretary of State, in exercise of the powers conferred on him by sections 19(2), 25(2), 26(2), 27(2), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1), and of all other powers enabling him in that behalf, and after consulting the Council on Tribunals and its Scottish Committee in accordance with section 8 of the Tribunals and Inquiries Act 1992(2), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Service Committees and Tribunal) (Scotland) Amendment Regulations 1994 and shall come into force on 1st January 1995.

(2) In these Regulations “the principal Regulations” means the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(3).

Amendment of regulation 3 of the principal Regulations

2.—(1) Regulation 3 of the principal Regulations (submission of complaints relating to terms of service) is amended in accordance with this regulation.

(1) 1978 c. 29; section 19(2) was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 2, and was extended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 17; section 25(2) was extended by the 1988 Act, section 17 and 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(6); section 26(2) was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), Schedule 1, Part II, paragraphs 2, 3 and 4 and Schedule 8, Part I and was extended by the 1988 Act, section 17; section 27(2) was amended by the National Health Service (Amendment) Act 1986 (c. 66), section 3(3) and by the 1990 Act, Schedule 9, paragraph 19(7)(b) and was extended by the 1988 Act, section 17; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9, paragraph 24 contains provisions relevant to the making of regulations; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) 1992 c. 53.

(3) S.I. 1992/434.

(2) In paragraph (1) after the words “General Manager” there are inserted the words “of the appropriate Health Board”.

(3) After paragraph (1) there is inserted—

“(1A) The appropriate Health Board for the purposes of this regulation is—

(a) the one on whose medical, dental, ophthalmic or pharmaceutical list the name of the professional person was included; or

(b) where the complaint relates to the acts or omissions of a doctor when acting as deputy to another doctor, the one on whose medical list the name of that other doctor was included,

at the time of the event, treatment or matter which is the subject of the complaint, or, where the professional person referred to in sub-paragraph (a) above or other doctor referred to in sub-paragraph (b) above as the case may be was at that time on more than one such list, the Health Board by arrangement with which the services under Part II of the Act giving rise to the complaint were provided.”.

(4) In paragraph (3)(a) for the word “event” there is substituted the word “matter” and after “complaint” there is inserted “comes to the complainer’s notice”.

Amendment of regulation 8 of the principal Regulations

3. In paragraph (4)(a) of regulation 8 of the principal Regulations (investigation of matters relating to provision of general services) for the word “event” there is substituted the word “matter” and after “allegation” there is inserted “comes to the notice of the Health Board”.

Amendment of regulation 11 of the principal Regulations

4.—(1) Regulation 11 of the principal Regulations (decision of Health Board) is amended in accordance with this regulation.

(2) In paragraph (1) after the words “by virtue of” there are inserted the words “paragraphs 7(1), 9(2) and 21(1) of”.

(3) After paragraph (1) there is inserted—

“(1A) A Health Board, after due consideration of a report submitted to them by a service committee by virtue of sub-paragraph (3A) of paragraph 4 of Schedule 1 shall—

(a) if they agree with the service committee’s report determine that no further action should be taken in relation to that report; or

(b) if they do not agree with the service committee’s report specify every provision of the terms of service with which they consider that the professional person may have failed to comply.

(1B) In a case falling within paragraph (1A)(b) above the investigation of the complaint shall continue in accordance with paragraphs 5 to 12 of Schedule 1 as if the General Manager had been notified of the relevant terms of service under paragraph 5(2) of that Schedule by the chairman of the appropriate committee.”.

Amendment of regulation 12 of the principal Regulations

5. Regulation 12 of the principal Regulations (appeal to Secretary of State from decision of Health Board) is amended by inserting after sub-paragraph (a) of paragraph (1) the following sub-paragraph:—

“(aa) by a complainer, against a determination by a Health Board under regulation 11(1A)(a) which is adverse to him; or”.

Amendment of Schedule 1 to the principal Regulations

6.—(1) Schedule 1 to the principal Regulations (rules of procedure of service committees) is amended in accordance with this regulation.

(2) In paragraph 4—

(a) in sub-paragraph (3) the words from “which” to the end are deleted;

(b) after sub-paragraph (3) there is inserted—

“(3A) The committee, if they agree with—

(a) the chairman’s opinion as mentioned in sub-paragraph (1) in any case falling within sub-paragraph (3)(a); or

(b) his opinion as mentioned in sub-paragraph (3)(b),

shall report on the matter to the Health Board without holding a hearing.”.

(3) In paragraph 20—

(a) in sub-paragraph (1) the words “Subject to sub-paragraph (2)” are deleted and after “(d)” there is inserted “and (e)”;

(b) sub-paragraph (2) is deleted.

St Andrew’s House,
Edinburgh
25th November 1994

Fraser of Carmyllie
Minister of State, Scottish Office

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992 (“the principal Regulations”). Regulation 2 amends regulation 3 of the principal Regulations to make clear that the Health Board to which the complaint should be addressed is the one on whose list the doctor (including when a deputy acted for him), dentist, optician or pharmacist was at the time of the matter which is the subject of the complaint. Regulations 2 and 3 amend regulations 3 and 8 respectively of the principal Regulations to extend the time limit during which a complaint against a dentist may be made. Regulations 4, 5 and 6 amend respectively regulations 11 and 12 of and Schedule 1 to the principal Regulations to provide for an appeal to the Secretary of State by a complainer in circumstances where the Health Board determine that no further action should be taken on a complaint. Regulation 6 also amends paragraph 20 of Schedule 1 to the principal Regulations to permit as of right any member of the Council on Tribunals or the Scottish Committee thereof to be present during the Service Committee’s deliberations following a hearing.