
STATUTORY INSTRUMENTS

1997 No. 943 (S.85)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1997

<i>Made</i>	- - - -	<i>16th March 1997</i>
<i>Laid before Parliament</i>		<i>19th March 1997</i>
<i>Coming into force</i>	- -	<i>1st April 1997</i>

The Secretary of State, in exercise of the powers conferred on him by sections 2(5), 19, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services) (Scotland) Amendment Regulations 1997 and shall come into force on 1st April 1997.

(2) In these Regulations “the principal Regulations” means the National Health Service (General Medical Services) (Scotland) Regulations 1995(2).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) for the definition of “maternity medical services” there shall be substituted—

““maternity medical services” shall be construed in accordance with regulation 31 and Schedule 4A;”.

Amendment of regulation 6 of the principal Regulations

3. In regulation 6 of the principal Regulations (local directory of family doctors) for paragraph (1) (h) substitute—

(1) 1978 c. 29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(1); section 19 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 2, by the Medical Act 1983 (c. 54), Schedule 5, paragraph 17(a) and by the 1990 Act, section 37 and is to be read with the Health and Medicines Act 1988 (c. 49), section 17; section 105(7) was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9, paragraph 24; see section 108(1) for the definitions of “prescribed” and “regulations”.

(2) S.I. 1995/416 amended by S.I. 1995/3199, 1996/842 and 1504.

- “(h) any arrangements for the provision of any deputy notified to the Board under paragraph 19(3) of Schedule 1;”.

Amendment of regulation 31 of the principal Regulations

4. For regulation 31 of the principal Regulations (obtaining maternity medical services) substitute—

“Obtaining maternity medical services

31.—(1) Maternity medical services shall comprise—

- (a) the provision of personal medical services to a woman during the ante-natal period;
- (b) the provision of personal medical services to a woman during labour;
- (c) the provision of personal medical services to a woman and to her baby, as specified in paragraph 3(b) of Schedule 4A during the post-natal period; and
- (d) the provision of a full post-natal examination.

(2) A woman who, after a doctor has diagnosed that she is pregnant, requires the provision of maternity medical services may arrange for the provision of any or all of the services mentioned in paragraph (1) with—

- (a) any doctor on a medical list who has indicated his willingness to provide maternity medical services;
- (b) the doctor on whose list she is included; or
- (c) any doctor on a medical list who has indicated his willingness to provide maternity medical services and who has accepted her as a temporary resident.

(3) A doctor with whom a woman has made an arrangement under paragraph (2) for the provision of any or all of the services mentioned in paragraph (1) shall provide such services as are specified in Schedule 4A.

(4) The provisions of regulation 19 shall apply to the making of an arrangement by a woman with a doctor for the provision of any or all of the services mentioned in paragraph (1) as they apply to the making of an application for inclusion in a doctor’s list.

(5) An arrangement between a woman and a doctor for the provision of any or all of the services mentioned in paragraph (1) may be terminated—

- (a) by the woman—
 - (i) so informing the Board in writing;
 - (ii) so informing the doctor in writing who shall within 7 days notify the Board in writing; or
 - (iii) making a new arrangement with another doctor who shall within 7 days notify the Board in writing of the new arrangement;
- (b) by the doctor making an application under paragraph 9B of the terms of service; or
- (c) where the woman is a temporary resident, when—
 - (i) she ceases to be resident in the doctor’s practice area; or
 - (ii) the doctor’s responsibility for her is terminated under paragraph 9A of the terms of service,whichever first occurs.

(6) Where the Board receives notification in accordance with paragraph (5)(a)(i) or (iii), it shall within 7 days notify the original doctor in writing that the woman's arrangement with him has been terminated.

(7) In this regulation and in Schedule 4A "ante-natal period" means the duration of a woman's pregnancy until the onset of labour and "post-natal period" means the period of 14 days following the conclusion of a pregnancy."

Amendment of Schedule 1 to the principal Regulations

5.—(1) Schedule 1 to the principal Regulations (terms of service for doctors) is amended as follows.

(2) In paragraph 1 the definition of "deputising service" is omitted.

(3) After paragraph 9 there are inserted the following two new paragraphs:—

9A. Where a doctor informs the Board in writing that he wishes to terminate his responsibility for a temporary resident, his responsibility for that person shall cease in accordance with paragraph 9, as if the temporary resident were a person on his list.

9B.—(1) A doctor with whom an arrangement has been made for the provision of any or all of the maternity medical services mentioned in regulation 31(1) may agree with the woman concerned to terminate the arrangement, and in default of agreement the doctor may apply to the Board for permission to terminate the arrangement.

(2) On an application under paragraph (1), the Board, after considering any representations made by either party, may terminate the arrangement.

(3) Where a doctor ceases to provide any or all of the maternity medical services mentioned in regulation 31(1), he shall inform any woman for whom he has arranged to provide such services that he is ceasing to provide them and that she may make a fresh arrangement to receive those services from another doctor."

(4) In paragraph 11 sub-paragraphs (4), (5) and (7) shall be omitted.

(5) In paragraph 18(5) for "deputising service" in both places where the expression occurs, substitute "organisation of the type mentioned in paragraph 19 with which he has entered an arrangement in accordance with that paragraph".

(6) For paragraphs 19 and 20 substitute the following new paragraphs—

19.—(1) In this paragraph, "organisation providing deputy doctors" means a person who provides deputies to doctors and includes a body consisting only of doctors who are included in the list of a Board who arrange to act as deputies to each other and which keeps separate accounts in relation to such arrangements.

(2) Before entering into arrangements with an organisation providing deputy doctors for the provision of any deputy, a doctor shall—

(a) obtain the written agreement of the organisation that any doctor it provides to him—

(i) will not be subject to a declaration under section 29(3)(c) of the Act or under any corresponding provision in force in England and Wales or Northern Ireland that he is not fit to be engaged in any capacity in the provision of general medical services;

(ii) will not be suspended by direction of the Tribunal, other than in a case falling within section 32B(3) of the Act; and

- (iii) will unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training be suitably experienced within the meaning of section 21 of the Act (other than by virtue of being a restricted services principal) or will have the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(3); and
 - (b) take all reasonable steps to satisfy himself that the service provided by the organisation (including its monitoring arrangements) will be adequate and appropriate having regard in particular to the interests of the doctor's patients.
- (3) A doctor shall notify the Board of any arrangements he makes with an organisation providing deputy doctors.
- (4) A doctor shall from time to time and at any time when there are grounds for doing so, take reasonable steps to satisfy himself that an organisation providing deputy doctors with which he has entered into arrangements for the provision of any deputy—
- (a) continues to comply with the agreement referred to in sub-paragraph (2)(a); and
 - (b) continues to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).
- (5) Subject to sub-paragraph (6), if the Board so requests, a doctor shall furnish it with evidence that such an organisation is continuing—
- (a) to comply with the agreement mentioned in sub-paragraph (2)(a); or, as the case may be,
 - (b) to provide a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b).
- (6) A Board shall not make a request for evidence under sub-paragraph (5)(b) unless—
- (a) it has reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b); and
 - (b) it has consulted the Area Medical Committee.
- (7) Subject to sub-paragraph (8), where in response to a request for evidence under sub-paragraph (5)(b), the Board continues to have reasonable grounds for believing that the organisation providing deputy doctors is not providing a service which is adequate and appropriate as mentioned in sub-paragraph (2)(b), it shall give notice (in this paragraph referred to as a “remedial notice”) to the doctor specifying—
- (a) the grounds for its concern;
 - (b) the remedial action which it considers necessary; and
 - (c) the time within which such action must be taken.
- (8) A Board shall not issue a remedial notice under sub-paragraph (7) without first consulting the Area Medical Committee.
- (9) Where a Board issues a remedial notice under sub-paragraph (7), it shall also send a copy of that notice to any other doctor who has made arrangements with the same organisation.
- (10) Where it appears to the Board—
- (a) that an organisation providing deputy doctors with which a doctor has made arrangements for the provision of a deputy—

- (i) is not complying with the agreement referred to in sub-paragraph (2)(a); or
 - (ii) has not taken the action specified in a remedial notice issued under sub-paragraph (7) within the time specified in that notice; or
 - (b) that a doctor's arrangement with such an organisation is such that the doctor's patients are at risk,
- it may give notice to the doctor requiring him to bring his arrangement with that organisation to an end either immediately or before such date as is stated in the notice.

20.—(1) A doctor shall not engage another doctor as a deputy, or employ one as an assistant, unless the other doctor—

- (a) is suitably experienced within the meaning of section 21 of the Act (other than by virtue of being a restricted services principal); or
- (b) has the acquired right specified in regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(4); or
- (c) is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training.”.

(7) In paragraph 35 (annual reports), in paragraph (c) of sub-paragraph (2) the words “health promotion or” are omitted.

Insertion of Schedule 4A to the principal Regulations

6. After Schedule 4 to the principal Regulations, there shall be inserted Schedule 4A in the Schedule to these Regulations.

Amendment of Schedule 7 to the principal Regulations

7. In Schedule 7 to the principal Regulations (information to be provided in annual reports) in paragraph (4)—

- (a) at the end of sub-paragraph (a) “and” is inserted; and
- (b) sub-paragraph (c) and the word “and” at the end of sub-paragraph (b) are omitted.

St Andrew's House,
Edinburgh
16th March 1997

James Douglas-Hamilton
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.

SCHEDULE

Regulation 6

SCHEDULE TO BE ADDED TO THE PRINCIPAL REGULATIONS

“SCHEDULE 4A

Regulation 31

MATERNITY MEDICAL SERVICES

1. A doctor with whom a woman has made an arrangement under regulation 31(2) for the provision of maternity medical services during the ante-natal period shall take all reasonable steps to provide full ante-natal care, supervision and examination including full medical and obstetric examination of the woman as soon as possible after the arrangement is made and such further examination as the condition of the woman requires until—

- (a) where the pregnancy is terminated by miscarriage, the woman has received all necessary personal medical services in connection with the miscarriage; or
- (b) where the woman goes into labour, the date of the onset of that labour.

2. A doctor with whom a woman has made an arrangement under regulation 31(2) for the provision of maternity medical services during labour shall take all reasonable steps to secure that she receives all necessary personal medical services during that labour.

3. A doctor with whom a woman has made an arrangement under regulation 31(2) for the provision of maternity medical services during the post-natal period shall—

- (a) take all reasonable steps to secure that the woman receives all necessary personal medical services related to the recent pregnancy or labour during the post-natal period; and
- (b) where the pregnancy has resulted in the birth of a live baby, render all necessary personal medical services to that baby during the period of 14 days following its birth, unless, during that period, another doctor has accepted the baby for inclusion in his list pursuant to an application made on the baby’s behalf under regulation 19(1).

4. A doctor with whom a woman has made an arrangement under regulation 31(2) for the provision of a post-natal examination shall, not less than 6 weeks nor more than 12 weeks after the conclusion of the pregnancy—

- (a) undertake a full post-natal examination of the woman; and
- (b) take all reasonable steps to ensure that the woman is informed of the need for any further treatment she may require.

5. The doctor providing the maternity medical services shall, if he is not the doctor on whose list the name of the woman is included—

- (a) comply with any request by the doctor on whose list the name of the woman is included to examine or give other assistance to the woman and her child if and so far as the practitioner providing the services considers it necessary and appropriate that he should do so;
- (b) issue, in accordance with the provisions of paragraph 13(7) of the terms of service, to the woman or her personal representative certificates of pregnancy, expected confinement and confinement, being certificates reasonably required by her.

6. Where the doctor is aware that an arrangement under regulation 31(2) is about to be terminated under regulation 31(5) he shall take all reasonable steps to ensure that the woman is informed of the manner in which she may make a further such arrangement with another doctor.

7. The doctor shall be relieved of his obligations under paragraph 1, 2, 3 or 4, as the case may be—

- (a) during any period when the woman is outside the doctor's practice area and is not present at any other place where, pursuant to paragraph 13 of the terms of service, the doctor is obliged to visit and treat her;
- (b) where it is proposed that the woman's labour should take place in a hospital, to the extent that responsibility for her care has been taken over by the hospital; and
- (c) where the woman has been admitted to a hospital as an in-patient, to the extent that her care has been taken over by the hospital.

8. Nothing in the foregoing shall affect the responsibility of the doctor on whose list the name of the woman receiving maternity medical services is included for the provision of treatment necessary for her general health."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (General Medical Services) (Scotland) Regulations 1995 ("the principal Regulations") which regulate the terms on which general medical services are provided under the National Health Service (Scotland) Act 1978.

Regulations 4, 5 and 6 introduce new arrangements for maternity medical services and the obligations of a doctor who has undertaken to provide such services. Maternity medical services are defined to comprise four component parts and a doctor who undertakes to provide maternity medical services may undertake to do so in respect of any or all of those parts.

Regulation 5 also amends the doctors' terms of service in relation to a doctor's obligations where he uses the services of an organisation providing deputy doctors. While a doctor has to notify the Health Board of any arrangements he may make with such an organisation, he no longer has to obtain the prior consent of the Health Board. The Regulations require a doctor himself to ensure that the services provided by an organisation providing deputy doctors are adequate and appropriate and that its doctors are suitably qualified and trained and have not been either disqualified or suspended from practice by the NHS Tribunal. There is provision enabling the Health Board to ask a doctor for evidence that he is complying with this obligation, to alert the doctor to any concerns it may have and, if need be, to require the doctor to bring his arrangement with an organisation providing deputy doctors to an end.

Regulation 7 removes information about a doctor's health promotion activities from the list of information which doctors are required to include in their annual reports to Health Boards.

Regulations 2 and 3 contain drafting amendments consequential on the subsequent regulations.