
STATUTORY INSTRUMENTS

1998 No. 660 (S.30)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (General Medical Services)
(Scotland) Amendment (No.2) Regulations 1998**

<i>Made</i>	- - - -	<i>9th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</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:

PART I
INTRODUCTORY

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services) (Scotland) Amendment (No.2) Regulations 1998 and shall come into force on 1st April 1998.

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

(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), by the 1990 Act, section 37 and by the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 29(a) 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, 1997/943 and 1473 and 1998/4.

PART II

AMENDMENTS CONSEQUENTIAL UPON THE NATIONAL HEALTH SERVICE (PRIMARY CARE) ACT 1997

Amendments connected with the National Health Service (Choice of Medical Practitioner (Scotland) Regulations 1998

Amendment of Parts I, IV and V of the 1995 Regulations

2.—(1) The 1995 Regulations are amended in accordance with the following provisions of this regulation.

(2) In regulation 2(3) (interpretation)—

(a) in the appropriate alphabetical positions, insert—

““the 1997 Act” means the National Health Service (Primary Care) Act 1997(4);”;

““the Choice of Medical Practitioner Regulations” means the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(5);”;

““personal medical services” has the meaning assigned to it in section 1(8) of the 1997 Act;”;

““pilot doctor” means a doctor who performs personal medical services in connection with a pilot scheme;”;

““pilot scheme” has the meaning assigned to it in section 1(1) of the 1997 Act;”;

““pilot scheme agreement” means an agreement which constitutes, or is one of the agreements which together constitute, a pilot scheme;”;

““pilot scheme provider” means a person who provides personal medical services in connection with a pilot scheme;”;

““pooled list” means a single list of the patients of two or more pilot doctors which is held in connection with a pilot scheme;”;

(b) in the definition of “doctor”, at the end, insert “and, when section 35 of the 1997 Act comes into force, includes a person engaged in employment under section 10 of the Medical Act 1983(6) in an approved medical practice(7);”

(c) for the definition of “medical card”, substitute—

““medical card” means a card issued by a Health Board to a person for the purpose of enabling him to obtain, or establishing his title to receive, primary medical services(8), other than contraceptive services, maternity medical services, child health surveillance services and minor surgery services;”;

(d) in the definition of “temporary resident”, for “regulation 26(2)” substitute “regulation 7 of the Choice of Medical Practitioner Regulations”.

(3) Regulations 19 (selection of doctor) and 20 (assignment of persons to doctors) are omitted.

(4) In regulation 22 (change of doctor) paragraphs (1) to (7) are omitted.

(3) Regulation 2 was amended by [S.I. 1995/3199](#), [1996/1504](#), [1997/943](#) and [1998/4](#).

(4) [1997 c. 46](#).

(5) [S.I. 1998/659](#).

(6) [1983 c. 54](#); section 10 is prospectively amended by section 35(2) of the 1997 Act.

(7) *See* section 11(4), as prospectively amended by section 35(4) of the 1997 Act. No order bringing section 35 into force had been made at the date on which these Regulations were made.

(8) “Primary medical services” is defined in section 17F(6) of the Act, inserted by section 23(2) of the 1997 Act.

(5) In regulation 24 (temporary provision of general medical services), in paragraph (2(9)), after “ceases to be entitled to be included in the medical list”, insert “(otherwise than in accordance with section 12(2) of the 1997 Act to enable him to perform personal medical services in connection with a pilot scheme to which the Health Board in whose list he was included is a party)”.

(6) For regulation 26 (temporary residents), substitute—

“Temporary residents

26.—(1) A person who is accepted as a temporary resident by a doctor under regulation 7 of the Choice of Medical Practitioner Regulations or by a pilot scheme provider under a pilot scheme agreement shall not be removed from the list of any doctor providing general medical services in which his name is included, unless the Health Board for the area in which that doctor practises is satisfied, after due enquiry—

- (a) that the person’s stay in the place of temporary residence has exceeded 90 days; and
- (b) that he has not returned to his normal place of residence or any other place within the practice area of the doctor in whose list his name is included.

(2) If a Health Board is satisfied as mentioned in paragraph (1), it shall remove the name of the person from the list of the doctor in which it is included and, if practicable, inform the person of that fact and of his entitlement to seek acceptance by any doctor, including the doctor by whom he has been treated as a temporary resident, in the area in which he is living, and of the name and address of the Health Board for that area.”.

(7) In regulation 27 (doctors' lists)—

- (a) in paragraph (2), for “regulation 22(4)” substitute “regulation 3(3) of the Choice of Medical Practitioner Regulations”;
- (b) for paragraph (4), substitute—

“(4) Any removal of a person from a doctor’s list caused by the transfer of a person to the list of another doctor or to a pooled list, other than a transfer under regulation 3(3) of the Choice of Medical Practitioner Regulations, or a transfer in pursuance of a notice under regulation 22(8), shall take effect—

- (a) from the date on which the Health Board receives notification of the acceptance of the person by the last-named doctor or, in the case of a transfer to a pooled list, the pilot scheme provider; or
- (b) subject to the consent of the Health Board, from such date, being not earlier than the date of that consent, as may be agreed between the doctors or, as the case may be, between the doctor and the pilot scheme provider.”.

(8) In regulation 31 (obtaining maternity medical services)(10), in paragraph (4), for “regulation 19” substitute “regulation 2 of the Choice of Medical Practitioner Regulations”.

Amendment of Schedule 1 to the 1995 Regulations

3.—(1) Schedule 1 to the 1995 Regulations (terms of service for doctors) is amended in accordance with the following provisions of this regulation.

(2) In paragraph 4 (a doctor’s patients) in sub-paragraph (4), for “regulation 20(1)”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”.

(3) In paragraph 5 (relief from liability to give emergency treatment) for “regulation 20(2)” substitute “regulation 4(8) of the Choice of Medical Practitioner Regulations”.

(9) Regulation 24(2) was amended by [S.I. 1995/3199](#).

(10) Regulation 31 was substituted by [S.I. 1997/943](#), regulation 4.

(4) In paragraph 7 (acceptance of patients), in sub-paragraph (b) for “regulation 26(1)”, substitute “regulation 7(1) of the Choice of Medical Practitioner Regulations”.

(5) In paragraph 9 (right of a doctor to have a patient removed from his list) in paragraph (1), after “another doctor” where it occurs in both places insert “, or the date of acceptance of his inclusion in a pooled list”.

(6) In each of—

- (a) paragraph 13(5)(a) (provision of services to patients);
- (b) paragraph 14(1) (newly registered patients); and
- (c) paragraph 16(4) (patients aged 75 years and over),

for “regulation 20”, substitute “regulation 4 of the Choice of Medical Practitioner Regulations”.

Amendment of Schedule 4A to the 1995 Regulations

4. In Schedule 4A to the 1995 Regulations(**11**) (maternity medical services), in paragraph 3(b), for “regulation 19(1)”, substitute “regulation 2 of the Choice of Medical Practitioner Regulations”.

*Amendments connected with the National Health Service
(Pilot Schemes: Part II Practitioners) Regulations 1998*

Further amendment of Schedule 1 to the 1995 Regulations

5.—(1) Schedule 1 to the 1995 Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph 18 (obligation to give treatment personally)—

- (a) in sub-paragraph (3), after “child health surveillance list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of child health surveillance services under the pilot scheme”; and
- (b) in sub-paragraph (4), after “minor surgery list”, insert “or is a pilot doctor who is named in a pilot scheme agreement as responsible for the performance of minor surgery services under the pilot scheme”;
- (c) in sub-paragraph (5), after “sub-paragraph (6)” insert “or for which the doctor is not responsible under sub-paragraph (6A)”;
- (d) after sub-paragraph (6), insert—

“(6A) Where, in connection with arrangements under a pilot scheme whereby, outside normal hours, pilot doctors and doctors providing general medical services co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients, a pilot doctor acts as a deputy to a doctor whose name is included in the medical list, that doctor is not responsible for the acts or omissions of the pilot doctor.”

(3) In paragraph 19(**12**) (organisations providing deputy doctors), for paragraph (1), substitute—

“(1) In this paragraph “organisation providing deputy doctors” means a person who provides deputies to doctors and includes a body which—

(a) consists only of—

- (i) doctors whose names are included in the list of a Health Board and who arrange to act as deputies to each other, or

(11) Schedule 4A was inserted by [S.I. 1997/943](#), regulation 6 and the Schedule.

(12) Paragraph 19 was substituted by [S.I. 1997/943](#), regulation 5(6).

- (ii) pilot doctors and doctors whose names are included in the list of a Health Board who co-operate in such a way that one doctor will cover for another to secure the performance of personal medical services or, as the case may be, the provision of general medical services for their patients; and
- (b) keeps separate accounts in relation to such arrangements.”.

Other amendments

Other amendments of the 1995 Regulations

6.—(1) The 1995 Regulations are amended in accordance with the following provisions of this regulation.

(2) In regulation 28(12)(a) (child health surveillance list) for “regulation 7 or regulation 8”, substitute “regulation 7, regulation 8, or section 12(2) of the 1997 Act”.

(3) In Schedule 1—

(a) in paragraph 17A(**13**) (out of hours arrangements), at the end of sub-paragraph (2), add “, but that arrangement shall terminate if the doctor with whom it is made ceases to be included in a medical list to enable him to perform personal medical services under a pilot scheme”;

(b) in paragraph 19 (organisations providing deputy doctors), in sub-paragraph (2)(a), after paragraph (iii), insert—

“(iv) will not be subject to a direction under paragraph 4 of Schedule 1 to the 1997 Act that his name is not to be included in a medical list;”;

(c) insert a new paragraph 20A as follows:—

“**20A.** A doctor shall not engage as a deputy or employ as an associate or assistant any doctor—

(a) who, having been disqualified under section 29(3)(b) of the Act (or under any corresponding provision in force in England and Wales or Northern Ireland) from inclusion in the medical list of a Board (or in England and Wales of an FHSA or in Northern Ireland of a Health and Social Services Board) is also the subject of 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; or

(b) who is suspended by direction of the Tribunal other than in a case falling within section 32B(3) of the Act; or

(c) who is subject to a declaration under paragraph 4(3) of Schedule 1 to the 1997 Act that he is not fit to be engaged in any capacity in the provision of general medical services.”.

(13) Paragraph 17A was inserted by [S.I. 1996/842](#), regulation 4(5).

PART III

OTHER AMENDMENTS

Further amendment of regulation 2 of the 1995 Regulations

7. In regulation 2(1) of the 1995 Regulations (interpretation), for the definition of “medical officer” substitute the definition—

““medical officer” means a doctor who is—

- (a) employed or engaged by the Department of Social Security; or
- (b) provided by an organisation in pursuance of a contract entered into with the Secretary of State for Social Security;”.

Further amendment of Schedule 1 to the 1995 Regulations

8. In Schedule 1 to the 1995 Regulations (terms of service for doctors)—

- (a) in paragraph 19 (organisations providing deputy doctors), in sub-paragraph (7), for “in response to a request for evidence” substitute “as a result of evidence provided”;
- (b) for paragraph 34 (reports to medical officers) substitute—

“34.—(1) A doctor shall, if he is satisfied that the patient consents—

- (a) supply in writing to a medical officer, within such reasonable period as that officer, or an officer of the Department of Social Security on his behalf and at his direction, may specify, such clinical information as the medical officer considers relevant about a patient to whom the doctor under these terms of service has issued or has refused to issue a medical certificate; and
- (b) answer any inquiries by a medical officer, or by an officer of the Department of Social Security on his behalf and at his direction, about a prescription form or medical certificate issued by the doctor under these terms of service, or about any statement which the doctor has made in a report under these terms of service.

(2) For the purpose of satisfying himself that the patient has consented as required by sub-paragraph (1), the doctor may (unless he has reason to believe the patient does not consent) rely on an assurance in writing from the medical officer, or any officer of the Department of Social Security, that he holds the patient’s written consent.”.

St Andrew’s House,
Edinburgh
9th March 1998

Sam Galbraith
Minister for Health, Scottish Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Part II of these Regulations makes amendments which are consequential upon the coming into force on 1st April 1998 of certain provisions of the National Health Service (Primary Care) Act 1997 and of regulations made under those provisions (see National Health Service (Primary Care) Act Commencement (No.4) Order 1998 ([S.I. 1998/631](#))).

Part III of these Regulations makes other amendments to the 1995 Regulations. Regulation 7 substitutes a new definition of “medical offic” in regulation 2 of the 1995 Regulations, so as to include doctors not directly employed by the Department of Social Security. Regulation 8(b) substitutes a new paragraph 34 in the doctors' terms of service. The new paragraph 34 permits the information to which it refers to be sought not only by a medical officer but also by an officer of the Department of Social Security on behalf and at the direction of a medical officer; and makes it a requirement that the doctor must be satisfied that the patient consents before he provides that information. For that purpose it allows the doctor, unless he has reason to believe his patient does not consent, to rely on a written assurance from the medical officer, or an officer of the Department of Social Security, that he holds the patient’s written consent.