



Tobacco and Primary Medical Services (Scotland) Act 2010

2010 asp 3

PART 2

PRIMARY MEDICAL SERVICES

38 Section 17C arrangements: persons with whom agreements can be made

After section 17C of the 1978 Act, insert—

“17CA Primary medical services: persons with whom agreements can be made

- (1) A Health Board may, subject to such conditions as may be prescribed, make an agreement under section 17C under which primary medical services are provided with—
 - (a) a medical practitioner,
 - (b) a health care professional (other than a medical practitioner),
 - (c) a qualifying partnership,
 - (d) a qualifying limited liability partnership,
 - (e) a qualifying company, or
 - (f) two or more of the persons mentioned in paragraphs (a) to (e).
- (2) For the purposes of subsection (1)—
 - (a) a qualifying partnership is a partnership that satisfies both of the following conditions—
 - (i) at least one partner is a medical practitioner or other health care professional,
 - (ii) all other partners are individuals,
 - (b) a qualifying limited liability partnership is a limited liability partnership that satisfies both of the following conditions—
 - (i) at least one member is a medical practitioner or other health care professional,

Changes to legislation: There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, Section 38. (See end of Document for details)

- (ii) all other members are individuals,
 - (c) a qualifying company is a company which satisfies both of the following conditions—
 - (i) at least one member of the company is a medical practitioner or other health care professional,
 - (ii) all other members are individuals.
- (3) A Health Board may only make such an agreement if the Board is satisfied that all the other parties to the agreement (“the contractors”) have sufficient involvement in patient care.
- (4) A contractor has sufficient involvement in patient care if—
- (a) where the contractor is a medical practitioner or a health care professional, the contractor, or
 - (b) where the contractor is a partnership, limited liability partnership or a company, each partner or, as the case may be, member of the contractor, regularly performs, or is engaged in the day to day provision of, primary medical services in accordance with section 17C arrangements, a general medical services contract or any other arrangement made in pursuance of section 2C(2) (or will so perform or be so engaged by virtue of the agreement in question).
- (5) Regulations may—
- (a) make provision as to what constitutes the regular performance of, or being engaged in the day to day provision of, primary medical services for the purposes of subsection (4),
 - (b) provide that references in subsection (4) to a person who is performing or is engaged in the provision of services include a person who has performed or been engaged in providing the services within such period as may be prescribed.
- (6) Regulations under subsection (5)(a) may, in particular, provide that a period of time in which a person is not performing or is not engaged in the provision of primary medical services is, in prescribed circumstances, to be disregarded for the purposes of determining whether the person regularly performs or is engaged in the day to day provision of those services.
- (7) In relation to an agreement under section 17C under which primary medical services are provided which is entered into with a partnership, regulations may make provision as to the effect on the agreement of a change in membership of the partnership.
- (8) In this section, “health care professional” means a member of a profession which is regulated by a body mentioned (at the time the agreement in question is made) in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c.17).”.

Commencement Information

- I1** S. 38 in force at 8.11.2010 for specified purposes by [S.S.I. 2010/372](#), art. 2(a), [Sch. 1](#)
- I2** S. 38 in force at 22.12.2010 in so far as not already in force by [S.S.I. 2010/372](#), art. 2(b), [Sch. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Tobacco and Primary Medical Services (Scotland) Act 2010, Section 38.