
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

**The General Medical Services and Section
17C Agreements (Transitional and other
Ancillary Provisions) (Scotland) Order 2004**

**PART 1
GENERAL**

Citation, commencement and interpretation

1.—(1) This Order may be cited as the General Medical Services and Section 17C Agreements (Transitional and other Ancillary Provisions) (Scotland) Order 2004 and shall come into force on 1st April 2004.

(2) In this Order—

“the 1978 Act” means the National Health Service (Scotland) Act 1978⁽¹⁾;

“the 1995 Regulations” means the National Health Service (General Medical Services) Regulations 1995⁽²⁾;

“the 2003 Order” means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003⁽³⁾;

“the 2004 Act” means the Primary Medical Services (Scotland) Act 2004⁽⁴⁾;

“the 2004 Regulations” means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004⁽⁵⁾;

“additional services” has the same meaning as in the 2004 Regulations;

“area medical committee” has the same meaning as in the 2004 Regulations;

“core hours” has the same meaning as in the 2004 Regulations;

“the Choice Regulations” means the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998⁽⁶⁾;

“contractor” means a person with whom a Health Board enters into a contract;

“default contract” means a contract entered into under article 13 of the Transitional Order and

“default contractor” shall, except in Part 3, where it has the meaning given in article 34(3), be construed accordingly;

“essential services” has the same meaning as in the 2004 Regulations;

(1) 1978 c. 29.
(2) S.I. 1995/416.
(3) S.I. 2003/1250.
(4) 2004 asp. 1.
(5) S.S.I. 2004/115.
(6) S.I. 1998/659.

“general medical services contract” means a contract under section 17J of the 1978 Act and general medical services contractor shall, except in Part 3, where it has the meaning given in article 34(3), be construed accordingly;

“Health Board” means a Health Board constituted under section 2 of the 1978 Act⁽⁷⁾ and, in relation to any time before 1st April 2004, includes a National Health Service trust to which functions of the Health Board were delegated under section 12AA of the 1978 Act⁽⁸⁾;

“list of patients” means—

- (a) in relation to a person providing general medical services under section 19 of the 1978 Act⁽⁹⁾, the list of patients of a medical practitioner prepared by the Health Board under regulation 27⁽¹⁰⁾ of the 1995 Regulations;
- (b) in relation to a general medical services contractor or a default contractor, the list prepared and maintained by the Health Board under the term of a general medical services contract which gives effect to paragraph 14 of Schedule 5 to the 2004 Regulations or under the equivalent term of a default contract; and
- (c) in relation to a person providing services under an agreement for primary medical services made (or, pursuant to article 49, deemed to be made) under section 17C of the 1978 Act—
 - (i) the list prepared and maintained by the Health Board under the term of that agreement which gives effect to paragraph 8 of Schedule 2 to the Section 17C Agreements Regulations;
 - (ii) the performers or pooled list required to be kept under the terms of any directions made by the Scottish Ministers in relation to patient lists for transitional agreements; or
 - (iii) the performers or pooled list required to be kept under regulation 9 of the National Health Service (Personal Medical Services) (Scotland) Regulations 2001⁽¹¹⁾;

“medical list” means the list of medical practitioners undertaking to provide general medical services for persons in its area kept by a Health Board under regulations made under section 19(2)(a) of the 1978 Act;

“NHS dispute resolution procedure”, except in Part 4 where it has the meaning given in article 48, has the same meaning as in the 2004 Regulations;

“National Health Service Trust” has the meaning indicated by section 12A of the 1978 Act⁽¹²⁾;

“out of hours period” has the same meaning as in the 2004 Regulations;

“Performers Lists Regulations” means the National Health Service (Primary Medical Services Performers' Lists (Scotland) Regulations 2004⁽¹³⁾;

(7) Section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 14(2) and Schedule 7, paragraph 1, the Hospital Complaints Procedure Act 1985 (c. 42), section 1(1) and the National Health Service and Community Care Act 1990 (c. 19), section 28 and Schedule 9, paragraph 19 and Schedule 10.

(8) Section 12AA was inserted by the Health Act 1999 (c. 8), section 47.

(9) Section 19 was amended by the Health and Medicines Act 1980 (c. 53), section 7, the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 7, paragraph 2, the Medical Act 1983 (c. 54), Schedule 5, paragraph 17, the National Health Service and Community Care Act 1990 (c. 19), section 37, the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 29, the National Health Service (Primary Care) Act 1997 (c. 46) Schedule 2, paragraph 39 and S.I. 2002/3135. It was extended by the Health and Medicines Act 1988 (c. 49), section 17(1). It is to be repealed from 1st April 2004 by the 2004 Act, Schedule, paragraph 1(7).

(10) Regulation 27 was amended by S.I. 1998/660, S.S.I. 1999/54 and S.S.I. 2003/443.

(11) S.S.I. 2001/72.

(12) Section 12A was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 31 and amended by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 34 and the Health Act 1999 (c. 8), sections 46 and 48 and Schedule 4, paragraph 45.

(13) S.S.I. 2004/114.

“pilot scheme” means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997⁽¹⁴⁾;

“pilot scheme provider” means a person who is providing services under a pilot scheme;

“practice premises” in relation to a person providing services under section 19 of the 1978 Act, has the same meaning as in regulation 2(1) of the 1995 Regulations⁽¹⁵⁾ and, in relation to a general medical services contractor or a default contractor, has the same meaning as in regulation 2(1) of the 2004 Regulations;

“primary medical services performers list” has the same meaning as in the 2004 Regulations;

“public or local holiday” has the same meaning as in the 2004 Regulations;

“section 17C agreement” means an agreement made under section 17C of the 1978 Act⁽¹⁶⁾;

“the Section 17C Agreements Regulations” means the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004⁽¹⁷⁾;

“section 17C provider” means—

- (a) a provider as defined in regulation 2 of the Section 17C Agreements Regulations; or
- (b) in relation to a transitional agreement, a provider as defined in article 48;

“registered patient” means—

- (a) a person who is recorded by the Health Board as being on the list of patients of a default contractor or a general medical services contractor; or
- (b) a person whom a default contractor or a general medical services contractor has accepted for inclusion on its list of patients, whether or not notification of that acceptance has been received by the Health Board and who has not been notified by the Health Board as having ceased to be on that list;

“temporary resident” means a person accepted by a general medical services contractor or a default contractor as a temporary resident under the term of its general medical services contract which gives effect to paragraph 16 of Schedule 5 to the 2004 Regulations (or under the equivalent terms of its default contract) and for whom the contractor’s responsibility has not been terminated in accordance with the terms of the general medical services contract or default contract;

“transitional agreement” means an agreement which is deemed under article 49 to have been made under section 17C of the 1978 Act and which has not been varied in accordance with article 50;

“the Transitional Order” means the General Medical Services (Transitional and other Ancillary Provisions) (Scotland) Order 2004⁽¹⁸⁾.

⁽¹⁴⁾ 1997 c. 46 is to be amended from 1st April 2004 by the 2004 Act, Schedule, paragraph 2(2).

⁽¹⁵⁾ Regulation 2 was amended by S.I. 1995/3199, S.I. 1996/1504, S.I. 1997/943, S.I. 1998/4, S.I. 1998/660, S.I. 1999/54, S.S.I. 1999/54, S.S.I. 2002/111 and S.S.I. 2003/443.

⁽¹⁶⁾ Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and was amended by the 2004 Act asp 1, section 2(2).

⁽¹⁷⁾ S.S.I. 2004/116.

⁽¹⁸⁾ S.I. 2004/142.