
SCOTTISH STATUTORY INSTRUMENTS

2004 No. 163

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

PART 7

**TRANSITIONAL ARRANGEMENTS: THE NATIONAL
HEALTH SERVICE (SERVICE COMMITTEES AND
TRIBUNAL) (SCOTLAND) REGULATIONS 1992**

**Determination of a Health Board made on or after the relevant date (regulation 7 of the
Service Committees Regulations)**

80.—(1) Where, on or after the relevant date, an appropriate Health Board is determining what action to take pursuant to regulation 7 in accordance with provision made in this Part, it shall make such a determination in accordance with such limitations and modifications to that regulation as are specified in this article.

(2) The appropriate Health Board may—

- (a) pursuant to regulation 7(1)(c)(i), determine that no further action should be taken;
- (b) pursuant to regulation 7(3), determine after consultation with the area medical committee that it would have considered it appropriate to impose a special limit on the number of persons for whom a doctor may undertake to provide treatment;
- (c) pursuant to regulation 7(5)(a), determine that an amount shall be recovered from the doctor;
- (d) pursuant to regulation 7(5)(c), determine that it would have warned the doctor to comply more closely with the doctor's terms of service in future, if those terms of service were still applicable,

and if it makes any one or more of the decisions specified in paragraphs (b) to (d), it shall, after the period specified in regulation 7(10)(a) has expired or it has received notice pursuant to regulation 7(10)(b) (as applicable), notify in writing the contracting Health Board and any Performers List Health Board of its decision and the reasons for it, where they are different Health Boards to the appropriate Health Board.

(3) Where, pursuant to paragraph (2)(c), the appropriate Health Board determines that an amount should be recovered from the doctor, regulation 7(8) shall not apply and that amount shall be recoverable by the appropriate Health Board and it shall be treated as a debt owed by that doctor to that appropriate Health Board.

(4) Where the appropriate Health Board has notified the contracting Health Board that it has taken any of the actions specified in paragraphs 2(b) to (d), or where the appropriate Health Board is the contracting Health Board, paragraph (5) shall apply without prejudice to any other rights the

contracting Health Board may have to take action against the relevant contractor pursuant to any term of the general medical services contract or default contract.

(5) Where this paragraph applies, the contracting Health Board may, in relation to a relevant contractor, take into account the determination of the appropriate Health Board if it is considering, pursuant to a term of the general medical services contract that gives effect to paragraph 103(7) of Schedule 5 to the 2004 Regulations, or an equivalent term in the default contract, whether the cumulative effect of breaches under that contract is such that to allow the contract to continue would be prejudicial to the efficiency of the services provided under that contract.

(6) Where—

- (a) a Performers List Health Board has received notification from an appropriate Health Board pursuant to paragraph (2); or
- (b) where an appropriate Health Board that has taken a decision pursuant to paragraph (2) is also a Performers List Health Board,

it shall consider what (if any) action it should take in respect of that doctor pursuant to sections 29, 30 or 32A of the 1978 Act.