

EXECUTIVE NOTE

The Primary Medical Services (Scotland) Act 2004 (Modification of the National Health Service (Scotland) Act 1978) Order 2006 SSI/2006/30

The above instrument was made in exercise of the powers conferred by section 7(1) and (2) of the Primary Medical Services (Scotland) Act 2004 (“the 2004 Act”) and in accordance with 7(5) of that Act. The Instrument is subject to affirmative resolution procedure.

Policy Objectives

Northern Ireland Provision

The purpose of this instrument is to make amendments to the National Health Service (Scotland) Act 1978 (“the 1978 Act”) in consequence of amendments made to the Primary Medical Services (Northern Ireland) Order 2004 (“the Order”) and the 2004 Act.

Regulation 1(2)

Section 17D of the 1978 Act describes the persons with whom a Health Board may make an agreement under section 17C of the 1978 Act under which primary medical services (“PMS”) are provided. Following changes to the law in Northern Ireland made in the Order and corresponding changes made to the 1978 Act by the 2004 Act on 1 April 2004, those references were no longer correct. The amendments made to section 17D of the 1978 Act clarifies that a person providing PMS under a general medical services (“GMS”) contract in Northern Ireland, or an individual employed by such a person (who did not qualify by another route) can enter a section 17C agreement for PMS in Scotland.

Regulation 1(3)

Similarly, the amendments to section 17L of the 1978 Act, which sets out the conditions for eligibility to be a contractor under a GMS contract, clarifies that a partnership which includes individuals who provide PMS under a GMS contract or Article 15B arrangements in Northern Ireland (and do not qualify by another route) can enter into a GMS contract in Scotland.

Accommodation and Premises Provision

Regulation 1(4)

Section 36 of the 1978 Act places a general duty on Scottish Ministers to provide hospital accommodation and premises other than hospitals at which facilities are available for any of the services provided under the 1978 Act. It places a duty on Scottish Ministers to make available such accommodation or premises where they “afford facilities for the provision of *general medical*, general dental or general ophthalmic services” on such terms and conditions as they determine, for those services. It is appropriate to omit reference to ‘*general medical*’ as there is provision in the 1978 Act which makes provision for the use of the accommodation for primary medical services in section 17I of the 1978 Act as amended by the 2004 Act. A further amendment is required to section 17L of the 1978 Act to ensure there is power to allow all providers of primary medical services to request permission to use accommodation and premises.

Regulation 1(5)

Section 64 of the 1978” Act applies to a person wishing to use relevant health service accommodation for the purpose of providing medical services to non-resident private patients. This has been extended to “persons providing primary medical services”.

Additional Provisions as to prohibition of Sale of Medical Practices

Regulation 1(6)

Regulation 1(6) amends Schedule 9 to the 1978 Act. This is concerned with the sale of goodwill of medical practices which is a criminal offence. The arrangements referred to with the practitioners of the medical practice for the provision by them of general medical services for a certificate has been updated and reference to ‘primary medical services’ included.

Consultation

The Scottish General Practitioners Committee has been consulted during the preparation of the instrument and is content.

Financial Effects

The instrument has no financial effects on the Scottish Executive.

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