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SCOTTISH STATUTORY INSTRUMENTS

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**2022 No. 130**

**NATIONAL HEALTH SERVICE**

**The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2022**

*Made* - - - - *6th April 2022*

*Laid before the Scottish*

*Parliament* - - - - *8th April 2022*

*Coming into force in accordance with regulation 1*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 17E, 17N and 105(7) of the National Health Service (Scotland) Act 1978(1), and all other powers enabling them to do so:

**Citation and commencement**

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2022.

(2) Subject to paragraph (3), these Regulations come into force on 28 May 2022.

(3) Regulations 4(c), 10, 11, 13, 14, 16(c), 21, 22, 25 and 26 come into force on 1 October 2022.

**Interpretation**

2. In these Regulations—

“GMS Contract Regulations” means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018(2),

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(1) 1978 c. 29. Section 17E was inserted by section 22(2) of the National Health Service (Primary Care) Act 1997 (c. 46) and was relevantly amended by section 65 and schedules 4 and 5 of the Health Act 1999 (c. 8), section 2(4) of the Primary Medical Services (Scotland) Act 2004 (asp 1) and S.I. 2003/1250. Section 17N was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1). Section 105(7) was relevantly amended by section 25(3), paragraph 5 of schedule 6 and schedule 7 of the Health Services Act 1980 (c. 53), section 29 and paragraph 24 of schedule 9 of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) and section 65 and paragraph 60 of schedule 4 of the Health Act 1999 (c. 8).

(2) S.S.I. 2018/66. Relevantly amended by paragraphs 422 to 425 of schedule 19 of the Data Protection Act 2018 (c. 12), S.S.I. 2018/94, S.S.I. 2019/336, S.S.I. 2019/284, S.I. 2019/1094 and S.S.I. 2021/302.

“PMS Agreement Regulations” means the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018(3).

### **Amendments to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018**

3. The GMS Contract Regulations are amended in accordance with regulations 4 to 14.

#### **Amendment to regulation 3 (interpretation)**

4. In regulation 3(1) (interpretation)—
  - (a) after the definition of “closed” insert—

““community treatment and care” includes phlebotomy, chronic disease monitoring, the collection of biometric information, attending to minor injuries, changing dressings, suture removal and ear syringing;

“community treatment and care services” means the provision of community treatment and care to the contractor’s patients;”,
  - (b) after the definition of “pharmacist independent prescriber” insert—

““pharmacotherapy” includes the management of acute and repeat prescriptions, medicines reconciliation, performing polypharmacy review and serial prescribing;

“pharmacotherapy services” means the provision of pharmacotherapy to the contractor’s patients;”,
  - (c) after the definition of “practice premises” insert—

““practice website” means a website published and maintained by the contractor in accordance with paragraph 74A of schedule 6;”.

#### **Insertion of regulation 18A (Health Board support for contractors)**

5. After regulation 18 (essential services) insert—

##### **“Health Board support for contractors**

**18A.—**(1) A contract must include terms which require the Health Board to provide the contractor with support by providing community treatment and care services and pharmacotherapy services.

(2) A contract must include terms to the effect that the extent and manner of the community treatment and care services and the pharmacotherapy services which the Health Board must provide in terms of paragraph (1) are to be determined in accordance with such directions as the Scottish Ministers may give.

(3) Any support which the contractor receives from a pharmacist independent prescriber supplied by the Health Board in connection with dispensing services which the contractor provides (under paragraph 44 of schedule 6) is not to be treated as support for the provision of pharmacotherapy services.”.

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(3) S.S.I. 2018/67. Relevantly amended by paragraphs 426 to 429 of schedule 19 of the Data Protection Act 2018 (c. 12), S.S.I. 2018/94, S.S.I. 2019/336, S.S.I. 2019/284, S.I. 2019/1094 and S.S.I. 2021/302.

### **Amendment of regulation 33A (transitional arrangements for vaccination and immunisation services)**

6. In regulation 33A (transitional arrangements for vaccination and immunisation services) for paragraphs (3) and (4) substitute—

“(3) A notice served by the Health Board under sub-paragraph (1)(a) must list all of the vaccinations and immunisations which the contractor is required to provide as a consequence of the notice, as of the date of the notice.

(4) A letter stating that the contractor is to continue to provide the vaccinations and immunisations additional service, the childhood vaccinations and immunisations additional service, or both services, for a period specified in the letter, which is sent by the Health Board to the contractor’s official correspondence address (specified in accordance with regulation 14) before the coming into force of this regulation is deemed to have the same effect as a notice under sub-paragraph (1)(a), if it complies with the requirements of this regulation.”.

### **Amendment to paragraph 5 (supplementary vaccinations and immunisations) of schedule 2A (vaccination services)**

7. In paragraph 5(1) (supplementary vaccinations and immunisations) of schedule 2A (vaccination services) after “section 17M” insert “of the Act”.

### **Insertion of paragraph 10A (duty to co-operate with Health Board support for the provision of essential services) into schedule 6 (other contractual terms)**

8. After paragraph 10 (duty of co-operation in relation to additional, enhanced services and vaccination services) of schedule 6 insert—

#### **“Duty to co-operate with Health Board support for contractors**

**10A.** — Where a Health Board is providing support under regulation 18A (Health Board support for contractors), the contractor must—

- (a) co-operate with the Health Board to allow the Health Board to provide pharmacotherapy services and community treatment and care services,
- (b) comply in core hours with any reasonable request for information from the Health Board to the contractor in relation to such service provision,
- (c) provide to its patients any aspect of pharmacotherapy services and community treatment and care services which the Health Board is to provide under regulation 18A(2) if the patient requires the services immediately to prevent injury or worsening of their clinical condition and Health Board provision is not immediately available.”.

### **Amendments to paragraph 54 (training) of schedule 6 (other contractual terms)**

9. In paragraph 54 (training) of schedule 6 (other contractual terms)—

- (a) re-number the existing paragraph as sub-paragraph (1),
- (b) at the beginning of sub-paragraph (1) insert “Subject to sub-paragraph (2)”,
- (c) after sub-paragraph (1) insert—

“(2) Sub-paragraph (1) does not apply in respect of a health care professional who is—

- (a) employed by the Health Board, and

- (b) performing clinical services under the contract solely as part of the support which the Health Board is required to provide under regulation 18A (Health Board support for contractors).”.

**Amendment to paragraph 72 (patient online appointment services) of schedule 6**

- 10.** In paragraph 72 (patient online appointment services) of schedule 6—
- (a) in sub-paragraph (1)—
    - (i) in sub-paragraph (a) omit “optional”,
    - (ii) in sub-paragraph (b) omit “optional”, and
    - (iii) in sub-paragraph (c) omit “optional”,
  - (b) omit sub-paragraph (2),
  - (c) in sub-paragraph (3) omit “If the contractor provides an optional online appointment service,”,
  - (d) for sub-paragraph (4) substitute—
    - “(4) The contractor must promote the services referred to in sub-paragraph (1) to its registered patients—
      - (a) in practice leaflets in accordance with paragraph 11 of schedule 8; and
      - (b) on the practice website.”.

**Insertion of paragraph 74A (practice website) of schedule 6**

- 11.** After paragraph 74 (practice leaflet) of schedule 6 insert—

**“Practice websites**

- 74A.—**(1) The contractor is required to publish a website for its practice which—
- (a) displays the information specified in schedule 8,
  - (b) is capable of providing the online services described by paragraph 72 (patient online appointment services).
- (2) The contractor must make reasonable efforts to maintain the accuracy of the information on the website.
- (3) Where the website is not operational, the contractor must inform the Health Board.”.

**Amendment to paragraph 114 (clinical governance) of schedule 6**

- 12.** In paragraph 114 (clinical governance) of schedule 6 after sub-paragraph (3) insert—
- “(3A) Where a health care professional employed by the Health Board performs clinical services from the contractor’s practice premises—
- (i) the contractor must provide the Health Board with information about its system of clinical governance which is sufficient to allow that health care professional to effectively co-operate with that system of clinical governance, and
  - (ii) the Health Board must ensure that any such health care professionals employed by the Health Board is aware of the contractor’s system of clinical governance.

(3B) Where the Health Board provides clinical services from the contractor’s practice premises, the Health Board must have regard to the contractor’s system of clinical governance.”.

**Amendment to schedule 8 (information to be included in practice leaflets)**

13. For the heading of schedule 8 (information to be included in practice leaflets) substitute “Practice information”.

14. In schedule 8 omit the opening text which appears before paragraph 1.

**Amendments to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018**

15. The PMS Agreement Regulations are amended in accordance with regulations 16 to 26.

**Amendments to regulation 3 (interpretation)**

16. In regulation 3(1) (interpretation)—

(a) after the definition of “closed” insert—

““community treatment and care” includes phlebotomy, chronic disease monitoring, the collection of biometric information, attending to minor injuries, changing dressings, suture removal and ear syringing;

“community treatment and care services” means the provisions of community treatment and care to the provider’s patients;”,

(b) after the definition of “pharmacist independent prescriber” insert—

““pharmacotherapy” includes the management of acute and repeat prescriptions, medicines reconciliation, performing polypharmacy review and serial prescribing;

“pharmacotherapy services” means the provision of pharmacotherapy to the provider’s patients;”,

(c) after the definition of “practice premises” insert—

““practice website” means a website published and maintained by the provider in accordance with paragraph 41A (practice website) of schedule 1;”.

**Amendment to regulation 28A (transitional arrangements for vaccination and immunisation services)**

17. In regulation 28A (transitional arrangements for vaccination and immunisation services) for paragraphs (3) and (4) substitute—

“(3) A notice served by the Health Board under sub-paragraph (1)(a) must list all of the vaccinations and immunisations which the provider is required to provide as a consequence of the notice, as of the date of the notice.

(4) A letter stating that the provider is to continue to provide the vaccinations and immunisations additional service, the childhood vaccinations and immunisations additional service, or both services, for a period specified in the letter, which is sent by the Health Board to the provider’s official correspondence address (specified in accordance with regulation 15) before the coming into force of this regulation is deemed to have the same effect as a notice under sub-paragraph (1)(a), if it complies with the requirements of this regulation.”.

**Insertion of paragraph 6A (Health Board support for providers) of schedule 1**

18. After paragraph 6 (infection control) of schedule 1 insert—

**“Health Board support for providers**

6A.—(1) The Health Board must provide the provider with support by providing the community treatment and care services and pharmacotherapy services.

(2) The extent and manner of the community treatment and care services and the pharmacotherapy services which the Health Board must provide in terms of sub-paragraph (1) are to be determined in accordance with such directions as the Scottish Ministers may give.

(3) Any support which the provider receives from a pharmacist independent prescriber supplied by the Health Board in connection with dispensing services which the provider provides (under paragraph 16 of schedule 1) is not to be treated as the provision of pharmacotherapy services.”.

**Insertion of paragraph 8A (duty of co-operation with Health Board support for the provision of essential services) of schedule 1**

19. After paragraph 8 (duty of co-operation in relation to primary medical services) of schedule 1 (contents of agreements) insert—

**“Duty of co-operation with Health Board support for providers**

8A. Where a Health Board is providing support under paragraph 6A (Health Board support for providers), the provider must—

- (a) co-operate with the Health Board to allow the Health Board to provide pharmacotherapy services and community treatment and care services to the provider’s patients,
- (b) comply in core hours with any reasonable request for information from the Health Board to the provider in relation to such support,
- (c) provide to its patients any aspect of pharmacotherapy services and community treatment and care services which the Health Board is to provide under paragraph 6A(2) if the patient requires the services immediately to prevent injury or worsening of their clinical condition and Health Board provision is not immediately available.”.

**Amendment to paragraph 26 (training) of schedule 1 (content of agreements)**

20. In paragraph 26 (training) of schedule 1—

- (a) re-number the existing paragraph as sub-paragraph (1),
- (b) at the beginning of sub-paragraph (1) insert “Subject to sub-paragraph (2)”,
- (c) after sub-paragraph (1) insert—
  - “(2) Sub-paragraph (1) does not apply in respect of a health care professional who is—
    - (a) employed by the Health Board, and
    - (b) performing clinical services under the agreement solely as part of the support which the Health Board is required to provide under paragraph 6A (Health Board support for providers).”.

### **Amendment to paragraph 40 (patient online appointment services) of schedule 1**

- 21.** In paragraph 40 (patient online appointment services) of schedule 1—
- (a) in sub-paragraph (1)—
    - (i) in sub-paragraph (a) omit “optional”,
    - (ii) in sub-paragraph (b) omit “optional”,
    - (iii) in sub-paragraph (c) omit “optional”,
  - (b) omit sub-paragraph (2),
  - (c) in sub-paragraph (3) omit “If the provider provides an optional online appointment service,”,
  - (d) for sub-paragraph (4) substitute—
    - “(4) The provider must promote the services referred to in sub-paragraph (1) to its registered patients—
      - (a) in practice leaflets in accordance with paragraph 11 of schedule 6; and
      - (b) on the practice website.”.

### **Insertion of paragraph 41A (practice website) of schedule 1**

- 22.** After paragraph 41 (practice leaflet) of schedule 1 insert—

#### **“Practice website**

- 41A.—**(1) The provider is required to publish a website for its practice which—
- (a) displays the information specified in schedule 6,
  - (b) is capable of providing the online services described by paragraph 40 (patient online appointment services) of schedule 1.
- (2) The provider must make reasonable efforts to maintain the accuracy of the information on the website.
- (3) Where the website is not operational, the provider must inform the Health Board.”.

### **Amendments to paragraph 79 (clinical governance) of schedule 1**

- 23.** After sub-paragraph (3) of paragraph 79 of schedule 1 insert—
- “(3A) Where a health care professional employed by the Health Board performs clinical services from the provider’s practice premises—
- (a) the provider must provide the Health Board with information about its system of clinical governance which is sufficient to allow that health care professional to effectively co-operate with that system of clinical governance, and
  - (b) the Health Board must ensure that any such health care professional employed by the Health Board is aware of the provider’s system of clinical governance.
- (3B) Where the Health Board provides clinical services from the provider’s practice premises, the Health Board must have regard to the provider’s system of clinical governance.”.

### **Amendment to schedule 3A (vaccination services)**

- 24.** In schedule 3A (vaccination services)—

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (a) in paragraph 5(1) (supplementary vaccinations and immunisations) after “section 17M” insert “of the Act”, and
- (b) in paragraph 5(4)(c) for “offered” substitute “offer”.

**Amendment to schedule 6 (information to be included in practice leaflets)**

**25.** For the heading of schedule 6 (information to be included in practice leaflets) substitute “Practice information”.

**26.** In schedule 6 omit the opening text which appears before paragraph 1.

St Andrew’s House,  
Edinburgh  
6th April 2022

*MAREE TODD*  
Authorised to sign by the Scottish Ministers



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The National Health Service (General Medical Services Contracts) Regulations 2018 (the “principal GMS regulations”) set out for Scotland the framework for general medical contracts into which Health Boards may enter under section 17J of the National Health Service (Scotland) Act 1978 (the “1978 Act”). Regulation 4(a) and (b) and regulation 5 make amendments to the principal GMS regulations to describe “community treatment and care services” and “pharmacotherapy services” which the Health Board must provide to the contractor to support them. Regulation 8 makes amendments to the principal GMS regulations to require the contractor to co-operate with the Health Board to allow it to provide community treatment and care services or pharmacotherapy services and to provide that where a patient has an immediate need for those services which cannot be met by the Health Board, the contractor must instead provide those services. Regulations 9 and 12 amend the principal GMS regulations to make consequential amendments to other parts of the contract in relation to community treatment and care services and pharmacotherapy services. Regulations 4(c), 10, 11, 13 and 14 amend the principal GMS regulations to require the contractor to have a website for their practice which must contain specified information and offer certain online services, and to make consequential changes in relation to the introduction of the websites requirement.

Regulations 6 and 7 make amendments to the principal GMS regulations to correct minor drafting errors in relation to vaccination services which were introduced into the regulations by the National Health Service (General Medical Services and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2021.

The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 (the “principal PMS regulations”) set out for Scotland the framework for primary medical services agreements which Health Boards may make under section 17C of the 1978 Act. Regulations 16 to 26 of these Regulations make amendments to the principal PMS regulations which are equivalent to those made to the principal GMS regulations.