

2012 No. 9

NATIONAL HEALTH SERVICE

**The National Health Service (General Medical Services
Contracts) (Scotland) Amendment Regulations 2012**

Made - - - - 17th January 2012

Laid before the Scottish Parliament 19th January 2012

Coming into force - - 26th February 2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 17N, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

Citation and commencement

1. These regulations may be cited as the National Health Service (General Medical Services Contracts) (Scotland) Amendment Regulations 2012 and come into force on 26th February 2012.

Amendment of the 2004 Regulations

2.—(1) Schedule 5 (other contractual terms) to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(b) is amended as follows.

(2) For paragraph 99A (termination by the Health Board for breach of conditions for contracts entered into on or after 22nd December 2010) substitute—

“99A.—(1) This paragraph applies to contracts entered into on or after 22nd December 2010.

(2) The Health Board must serve notice in writing on the contractor terminating the contract with immediate effect where the contractor is an individual medical practitioner but is no longer a general medical practitioner.

(3) Sub-paragraph (4) applies where the contractor is—

- (a) a partnership and either of the conditions specified in regulation 4(2)(a) and (b) is no longer satisfied;
- (b) a limited liability partnership and either of the conditions specified in regulation 4(3)(a) and (b) is no longer satisfied; or

(a) 1978 c.29; section 17N was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 4; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 29 and Schedule 9, paragraph 24 and by the Health Act 1999 (c.8), Schedule 4, paragraph 60. Section 108(1) defines “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2004/115.

- (c) a company and either of the conditions specified in regulation 4(4)(a) and (b) is no longer satisfied.
- (4) Where this sub-paragraph applies, the Health Board must—
- (a) serve notice in writing on the contractor terminating the contract with immediate effect; or
 - (b) serve notice in writing on the contractor confirming that the Health Board will allow the contract to continue, for a period specified by the Health Board of up to six months (“the interim period”).
- (5) Before deciding which of the options in sub-paragraph (4) to pursue, the Health Board must consult the area medical committee for its area where it is reasonably practicable to do so.
- (6) During the interim period under sub-paragraph (4)(b) the Health Board must, with the consent of the contractor, employ or supply one or more general medical practitioners to the contractor to assist in the provision of clinical services under the contract.
- (7) If the contractor—
- (a) does not consent to the Health Board employing or supplying a general medical practitioner during the interim period; or
 - (b) still falls within sub-paragraph (3)(a), (b) or (c) at the end of the interim period,
- the Health Board must serve notice in writing on the contractor terminating the contract with immediate effect.”.
- (3) In paragraph 101(2) (other grounds for termination by the Health Board)—
- (a) in head (b) omit “or suspended” to “corresponding thereto”;
 - (b) for head (c) substitute—
 - “(c) subject to sub-paragraph (3), the person is disqualified or suspended from practising by any licensing body anywhere in the world (other than by—
 - (i) a direction under section 32A(2) (applications for interim suspension) or 32B(1) (suspension pending appeal) of the Act;
 - (ii) a Health Board in terms of regulation 8A of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004(a); or
 - (iii) any provision in force in England, Wales or Northern Ireland corresponding to the provisions referred to in sub-heads (i) and (ii)).”.
- (4) In paragraph 101A(2) (other grounds for termination by the Health Board for contracts entered into on or after 22nd December 2010)—
- (a) in head (b) omit “or suspended” to “corresponding thereto”;
 - (b) for head (c) substitute—
 - “(c) subject to sub-paragraph (5), the person is disqualified or suspended from practising by any licensing body anywhere in the world (other than by—
 - (i) a direction under section 32A(2) (applications for interim suspension) or 32B(1) (suspension pending appeal) of the Act;
 - (ii) a Health Board in terms of regulation 8A of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004; or

(a) S.S.I. 2004/114. Regulation 8A was inserted by S.S.I. 2011/392.

- (iii) any provision in force in England, Wales or Northern Ireland corresponding to the provisions referred to in sub-heads (i) and (ii)).”.

St Andrew's House,
Edinburgh
17th January 2012

NICOLA STURGEON
A member of the Scottish Executive

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 (“the principal Regulations”), which set out the framework for general medical services contracts under the National Health Service (Scotland) Act 1978.

Regulation 2(2) amends the termination provision in paragraph 99A of Schedule 5 to the principal Regulations so that paragraph 99A properly reflects the policy.

Regulation 2(3) and (4) amends the termination provisions in paragraphs 101 and 101A of Schedule 5 to the principal Regulations to amend the circumstances when a Health Board may terminate a contract.

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