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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 94**

**NATIONAL HEALTH SERVICE**

**The National Health Service (General Medical Services Contracts and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2018**

<i>Made</i>	- - - -	<i>14th March 2018</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>14th March 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Scottish Ministers make the following Regulations, in exercise of the powers conferred by sections 9(6), 17A(6), 17E, 17K, 17L, 17N, 17O, 105(7) and 106(a) of the National Health Service (Scotland) Act 1978(1) 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 and Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2018 and come into force on 1st April 2018.

**Amendment of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018**

2. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018(2) are amended as follows.

3. In regulation 3(1) (interpretation), in the definition of—

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- (1) 1978 c.29. Section 17A was inserted by section 30 of the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”). Section 17A was moved under a new heading entitled “NHS Contracts” by section 31 of the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”). Section 17E was inserted by section 22(2) of the 1997 Act and amended by paragraph 47 of schedule 4 and paragraph 1 of schedule 5 of the Health Act 1999 (c.8) (“the 1999 Act”) and section 2(4) of the Primary Medical Services (Scotland) Act 2004 (asp 1) (“the 2004 Act”). Sections 17K, 17N and 17O were inserted by section 4 of the 2004 Act. Section 17L was substituted by section 39(1) of the Tobacco and Primary Medical Services (Scotland) Act 2010 (asp 3). Section 105(7) was amended by paragraph 5 of schedule 6 and schedule 7 of the Health Services Act 1980 (c.53), paragraph 24 of schedule 9 of the Health and Social Services and Social Security Adjudications Act 1983 (c.41) and paragraph 60 of schedule 4 of the 1999 Act. Section 108(1) contains definitions of “prescribed” and “regulations” relevant to 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).
- (2) S.S.I. 2018/66.

- (a) “Health Board”, after “contract” insert “and a reference to “the Board” is to be construed accordingly”;
  - (b) “independent prescriber”, in paragraph (d), after “chiroprapist” insert “independent”;
  - (c) “prescription form”, for “services.” substitute “services;”;
  - (d) “relevant register”, in paragraph (c), for “Health Professions Council” substitute “Health and Care Professions Council”; and
  - (e) “supplementary prescriber”, in paragraph (d), for “Health Professions Council” substitute “Health and Care Professions Council”.
4. In regulation 11(8) (continuing conditions relating to contracts – sufficient involvement in patient care) for “contactor” substitute “contractor”.
5. In regulation 28(4) (fees and charges) for “paragraph (e)” substitute “paragraph (1)(e)”.
6. In regulation 33 (out of hours)—
- (a) in paragraph (3)(a) for “contactor” substitute “contractor”; and
  - (b) in paragraph (6)—
    - (i) for “contactor’s” substitute “contractor’s”; and
    - (ii) for “contactor” substitute “contractor”.
7. In schedule 6 (other contractual terms)—
- (a) in paragraph 17(3) (removal from the list at the request of the contractor)—
    - (i) for “has—” substitute “has warned the patient that the patient is at risk of removal and explained to the patient the reasons for this.”;
    - (ii) omit head (a); and
    - (iii) omit head (b);
  - (b) in paragraph 33 (assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel)—
    - (i) in sub-paragraph (3)(d), in the inserted sub-paragraph 19(b), after “Board” insert—
      - “; and
      - (c) the contractor (or contractors) which referred the matter to dispute resolution.”; and
    - (ii) for sub-paragraph (3)(e) substitute—
      - “paragraph 92(2) does not apply.”;
  - (c) in paragraph 39(6)(b) (prescribing) for “purpose” substitute “purpose,”;
  - (d) in paragraph 58 (independent prescribers and supplementary prescribers)—
    - (i) in sub-paragraph (1) for “it must notify” substitute “the contractor must notify”; and
    - (ii) in sub-paragraph (2) for “it must notify” substitute “the contractor must notify”;
  - (e) in paragraph 62(10)(c) (sub-contracting of clinical matters) omit the second occurrence of “or partner”;
  - (f) in paragraph 65(2)(a) (roles, responsibilities and obligations – general) for “65 and 66” substitute “66 and 67”;
  - (g) in paragraph 70(2) (data protection officer) after “paragraph 67(b)” insert “and (c)”;
  - (h) in paragraph 72 (patient online appointment services)—
    - (i) in sub-paragraph (4)(b) for “contactor” substitute “contractor”; and

- (ii) in sub-paragraph (5)(a) for “book” substitute “book”;
  - (i) in paragraph 76 (provision of information to a medical officer etc)—
    - (i) in the heading insert “.” after “etc”;
    - (ii) in sub-paragraph (4)(c) for “Health Professions Council” substitute “Health and Care Professions Council”; and
    - (iii) in sub-paragraph (4)(d) for “Health Professions Council” substitute “Health and Care Professions Council”;
  - (j) in paragraph 77(8) (annual return and review) for “(2)” substitute “(6)”;
  - (k) in paragraph 81(2)(a)(i) (notice provisions specific to a contract with a company) for “(9)” substitute “(8)”;
  - (l) in paragraph 87 (complaints procedure) for “that Act” substitute “that section”;
  - (m) in paragraph 89 (local resolution of contract disputes: local dispute resolution process)—
    - (i) in sub-paragraph (1), in paragraph (c) of the definition of “local resolution approved mediator functions”, for “(9).” substitute “(9).”;
    - (ii) in sub-paragraph (3)(a) for “the first Health Board” substitute “the second Health Board”;
    - (iii) in sub-paragraph (3)(b) for “the first Health Board” substitute “the second Health Board”; and
    - (iv) in sub-paragraph (9) for “(4)” substitute “(6)”;
  - (n) in paragraph 94(4)(c) (variation of a contract: general) for “2016” substitute “2011”;
  - (o) in paragraph 103(1) (other grounds for termination by the Health Board), for the second occurrence of “notice” substitute “notice.”;
  - (p) in paragraph 109 (contract sanctions and the dispute resolution procedure)—
    - (i) in sub-paragraph (1), omit “(a) or (b)”;
    - (ii) in sub-paragraph (2)(b) for “91 or 92” substitute “90 or 91”;
  - (q) in paragraph 110 (termination and the NHS dispute resolution procedure)—
    - (i) in sub-paragraph (1) for “108” substitute “107”;
    - (ii) in sub-paragraph (4)(b) for “91 or 92” substitute “90 or 91”; and
    - (iii) in sub-paragraph (5) after “101 to” insert “107”; and
  - (r) in paragraph 111(1)(a) (consultation with the area medical committee) for “108” substitute “107”.
- 8.** In schedule 7 (closure notice), in paragraph (5) of the form, for “or a number” substitute “as a number”.
- 9.** In schedule 9 (revocations)—
- (a) in the first entry in column 3 (extent of revocation) omit “and paragraph 2 of schedule 6”; and
  - (b) for the fifth entry in that column substitute “The whole Regulations”.
- 10.** In schedule 10 (consequential amendments)—
- (a) in paragraph 2(3)(a) for ““paragraph 114 (gifts) of Schedule 5 to”” substitute ““paragraph 114 (gifts) of Schedule 5 (other contractual terms) to””;
  - (b) in paragraph 4—
    - (i) in sub-paragraph (1) for “are” substitute “is”;

- (ii) in sub-paragraph (4)(a) for “paragraph (a)” substitute “paragraph (1)(a)”; and
- (iii) in sub-paragraph (24)(a) for “substituted” substitute “substitute”;
- (c) in paragraph 5(2) for “regulation 2” substitute “regulation 2(1)”; and
- (d) in paragraph 7(2) for “sub-paragraph (i)” substitute “sub-paragraph (a)(i)”.

### **Amendment of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018**

**11.** The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018<sup>(3)</sup> are amended as follows.

**12.** In regulation 2(a) (application), for “National Health (Primary Medical Services Section 17C Agreements (Scotland) Regulations 2004” substitute “National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004”.

**13.** In regulation 3(1) (interpretation)—

- (a) omit the definition of “care home service”;
- (b) in the definition of “Health Board” after “agreement” insert “and a reference to “the Board” is to be construed accordingly”;
- (c) omit the definition of “licensing authority”;
- (d) in the definition of “limited liability partnership” for “Limited Partnerships Act 2000” substitute “ Limited Liability Partnerships Act 2000<sup>(4)</sup>”;
- (e) omit the definition of “Regional and Social Care Board”;
- (f) after the definition of “public or local holiday” insert—
  - ““Regional Health and Social Care Board” means the Regional Health and Social Care Board established under section 7 of the Health and Social Care (Reform) Act (Northern Ireland) 2009<sup>(5)</sup>.”;
- (g) in paragraph (c) of the definition of “relevant register” for “Health Professions Council” substitute “Health and Care Professions Council”; and
- (h) in paragraph (d) of the definition of “supplementary prescriber” for “Health Professions Council” substitute “Health and Care Professions Council”.

**14.** In regulation 28(5) (out of Hours) omit “-” before “paragraphs (1) to (4)”.

**15.** In schedule 1 (content of agreements)—

- (a) in paragraph 12(2) (prescribing) for “; and” substitute “.”;
- (b) in paragraph 15(1) (excessive prescribing) for “was” substitute “is”;
- (c) in paragraph 33(5)(c) (sub-contracting of clinical matters) after “December” insert “2010”;
- (d) in paragraph 36(1)(a) (records) for “the purpose” substitute “that purpose”;
- (e) in paragraph 40 (patient online appointment services)—
  - (i) omit “and” at the end of sub-paragraph (1)(a);
  - (ii) in sub-paragraph (3) insert “.” after “accordingly”; and
  - (iii) in sub-paragraph (5)(a) for “book” substitute “book.”;
- (f) in paragraph 43 (provision of information to a medical officer etc)—

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(3) S.S.I. 2018/67.

(4) 2000 c.12.

(5) 2009 c.1.

- (i) in the heading insert “.” after “etc”; and
  - (ii) in sub-paragraph (4)—
    - (aa) in head (c) for “Health Professions Council” substitute “Health and Care Professions Council”; and
    - (bb) in head (d) for “Health Professions Council” substitute “Health and Care Professions Council”;
  - (g) in paragraph 44(7) (annual return and review) for “(2)” substitute “(5)”;
  - (h) in paragraph 56 (local resolution of contract disputes – Local Dispute Resolution Process)—
    - (i) in sub-paragraph (1), in paragraph (c) of the definition of “local resolution approved mediator functions”, for “(9).” substitute “(9).”; and
    - (ii) in sub-paragraph (9) for “(4)” substitute “(6)”;
  - (i) in paragraph 57 (dispute resolution: non-NHS agreements)—
    - (i) for the heading “Dispute resolution: non-NHS agreements” substitute the heading “Dispute resolution: non-NHS contracts”; and
    - (ii) in sub-paragraph (1) for “an NHS agreement” substitute “an NHS contract”;
  - (j) in paragraph 68 (other grounds for termination by the Health Board)—
    - (i) in sub-paragraph (3)(l)(i) for “anybody; or” substitute “any body; or”; and
    - (ii) at the end of sub-paragraph (3)(m)(v) omit “or”;
  - (k) at the end of paragraph 69(2)(n) (other grounds for termination by the Health Board for agreements entered into on or after 22nd December 2010) omit “or”;
  - (l) in the heading to paragraph 73 (termination by the Health Board: additional provisions specific to agreements with one or more companies limited by shares) for “companies limited by shares” substitute “bodies corporate”; and
  - (m) in paragraph 76(2)(c) (agreement sanctions and the dispute resolution procedure) insert “—” after the second occurrence of “either”.
- 16.** In schedule 2 (agreements to provide essential services)—
- (a) in paragraph 10(5) (removal from the list at the request of the patient) for “require” substitute “required”;
  - (b) in paragraph 11 (removal from the list at the request of the provider)—
    - (i) in sub-paragraph (1) for “applicant’s” substitute “patient’s”; and
    - (ii) in sub-paragraph (3)—
      - (aa) for “has—” substitute “has warned the patient that the patient is at risk of removal and explained to the patient the reasons for this.”;
      - (bb) omit head (a); and
      - (cc) omit head (b);
  - (c) in the heading to paragraph 16 (removals from the list of patients absent from the United Kingdom etc) insert “.” after “etc”;
  - (d) in paragraph 19(4) (closure of lists of patients) for “sub paragraph (1)” substitute “sub-paragraph (1)”;
  - (e) at the end of paragraph 20(3)(a) (approval of closure notice by the Health Board) insert “or”; and

- (f) in paragraph 26 (assignments to closed lists: NHS dispute resolution procedure relating to determinations of the assessment panel)—
  - (i) in sub-paragraph (3)(a) for “paragraph 28(1)” substitute “paragraphs 26(1) and (2)”; and
  - (ii) in sub-paragraph (3)(d)—
    - (aa) in the inserted sub-paragraph 19(b) after “Board;” insert “and”;
    - (bb) in the inserted sub-paragraph 19(c) for “resolution; and” substitute “resolution.”; and”;
    - (cc) omit the inserted sub-paragraph (19)(d); and
    - (dd) after sub-paragraph (3)(d) insert—
      - “(e) paragraph 59(2) and (3) of schedule 1 do not apply.”.
- 17. In schedule 4 (minimum standards for practice premises)—
  - (a) in paragraph 13 for “85” substitute “83”; and
  - (b) in paragraph 16 insert “practice” before the first occurrence of “premises”.
- 18. In schedule 6 (information to be included in practice leaflets)—
  - (a) in paragraph 3 for “the address of the company’s registered office.” substitute—
    - “(c) the address of the company’s registered office.”; and
  - (b) in paragraph 19(c) omit “and”.
- 19. In schedule 8 (consequential amendments), for paragraph 4(2) substitute—

“In regulation 2(1) (interpretation and application) in paragraph (b) of the definition of “dispensing doctor”, for “paragraph 15 of Schedule 1 to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004” substitute “paragraph 16 of schedule 1 of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018.”.

St Andrew’s House, Edinburgh  
14th March 2018

*SHONA ROBISON*  
A member of the Scottish Government

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 and the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 to make various corrections to those instruments and to make a change to properly reflect a point of policy in those instruments.