

PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2004

EXPLANATORY NOTES

THE ACT – AN OVERVIEW

Part 1: Provision of Primary Medical Services

Section 5 – Persons performing primary medical services

49. This section inserts new section 17P into the 1978 Act. The new section inserts into the 1978 Act regulation-making powers governing the ways in which persons performing primary medical services are listed. The regulations will prevent health care professionals of a prescribed description from performing primary medical services for Health Boards unless their name appears on a list held by the Health Board which has the duty to provide those services. (Health care professionals will not have to be included in these lists to perform services privately). For example, where a Health Board employs a salaried GP to perform primary medical services directly by the Board (A) or where a practice (which includes a GP) undertakes to provide primary medical services under a GMS contract, section 17C arrangements or any other arrangement for the provision of primary medical services (B), the doctors performing primary medical services in both (A) and (B) will need to have their name included on that Health Board's list. The obligation to be on the list of a Health Board before performing services in that Health Board's area remains even if the services are carried out as part of a contract with a neighbouring Health Board which is using its powers under section 2C(1)(b) of the Act to provide or secure the provision of primary medical services as respects the area of another Health Board.
50. The new section (taken with the repeal by the schedule of the relevant sections of the 1978 Act) replaces the existing system of listing which created three lists in each Health Board area: the medical list for principal GPs; the supplementary list for non-principal GPs; and the services lists for providers under section 17C arrangements and pilot schemes.
51. The amalgamation of the lists into a single list for each Health Board area is a technical consequence of the creation in new section 2C of a duty on Health Boards to provide or secure the provision of primary medical services and of new section 17L which allows Health Boards to enter into GMS contracts with a partnership or company.
52. Under new section 2C, GMS contracts and section 17C arrangements will be two of the ways in which Health Boards will be able to discharge their duty to provide or secure the provision of primary medical services. Bringing the two options together under one duty ends the need to have separate listing arrangements for those who provide these services.
53. Section 17L ends the distinction between GP principals (those GPs who make direct arrangements with Health Boards to provide GMS) and non-principals (those GPs who assist principal practitioners but do not have their own arrangement with the Health

*These notes relate to the Primary Medical Services (Scotland) Act
2004 (asp 1) which received Royal Assent on 27 January 2004*

Board), and it is therefore no longer appropriate to distinguish between them for listing purposes.

54. Section 17P also sets out the particular issues that may be included in the regulations (subsection (3)). These include, for example, how the list will be drawn up and maintained; what criteria an individual will have to meet to qualify to be on the list; the process by which decisions on applications will be made; mandatory grounds under which a Health Board would have to reject an application and discretionary grounds under which they may reject an application. Subsection (3) of section 5 amends section 29 of the 1978 Act so that the NHS Tribunal may inquire into representations that individuals on a list under section 17P should be disqualified for inclusion on that list.