

TOBACCO AND PRIMARY MEDICAL SERVICES (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 2 – Primary Medical Services

Section 39 – Eligibility to be contractor under general medical services contract

59. Section 39(1) amends the criteria for eligibility to provide primary medical services under a general medical services contract by substituting section 17L of the 1978 Act. Subsection (1) sets out that Health Boards may only enter into a general medical services contract with medical practitioners, or such other health care professional as may be prescribed, and qualifying partnerships, limited liability partnerships or companies. The definitions of a qualifying company, partnership and limited liability partnership in subsection (2) are similar to those for section 17C arrangements. That is, a qualifying partnership or limited liability partnership is one where all partners are individuals and at least one partner or member is a medical practitioner or prescribed health care professional, and a qualifying company is one where at least one member is a medical practitioner or prescribed health care professional, and all other members are individuals. The involvement requirement is that all parties regularly perform, or are engaged in the day to day provision of, primary medical services with the details to be set out in regulations (see subsections (3) to (6)).
60. Subsection (7) provides that regulations may be made to determine the effect on the contract of a change in membership of the qualifying partnership while subsection (8) provides a definition of the health care professionals who may be prescribed as contractors for the purposes of subsections (1), (2) and (4).
61. Section 39(2) amends section 105(3) of the 1978 Act (“Orders, regulations and directions”) by the addition of a reference to the regulation making powers to be inserted by section 39(1) - (section 17L(1)(b)). This means regulations under section 17L(1)(b) will attract affirmative procedure.