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SCOTTISH STATUTORY INSTRUMENTS

2000 No. 168

NATIONAL HEALTH SERVICE

**The National Health Service (Clinical
Negligence and Other Risks Indemnity Scheme)
(Scotland) Amendment Regulations 2000**

<i>Made</i>	- - - -	<i>1st June 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>6th June 2000</i>
<i>Coming into force</i>	- -	<i>27th June 2000</i>

The Scottish Ministers, in exercise of the powers conferred upon them by sections 2(5), 85B, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Amendment Regulations 2000 and shall come into force on 27th June 2000.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000(2).

Amendment of regulation 1 of the principal Regulations

2.—(1) Regulation 1 of the principal Regulations is amended as follows.

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- (1) 1978 c. 29; section 85B was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 41 and was amended by the Health Act 1999 (c. 8), (“the 1999 Act”) Schedule 4, paragraph 56; section 105(7), which contains provisions relevant to the making of Regulations, was amended by the Health Service 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), Schedule 9, paragraph 24 and by the 1999 Act, Schedule 4, paragraph 60; section 108(1) contains definitions of “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).
- (2) S.S.I. 2000/54.

(2) In paragraph (2) (interpretation) for the definition of “Special Health Boards” there is substituted the following—

““Special Health Boards” means any body established as a Special Health Board by order under the Act.”(3).

Amendment of regulation 3 of the principal Regulations

3.—(1) Regulation 3 (members of the Scheme) of the principal Regulations is amended as follows.

(2) At the end of paragraph (c) there is added the word “and”.

(3) Paragraphs (e) and (f) are deleted.

Amendment of regulation 4 of the principal Regulations

4.—(1) Regulation 4 (liabilities to which the Scheme applies) of the principal Regulations is amended as follows.

(2) In the heading after the word “**Liabilities**” there is inserted “**and financial losses**”.

(3) For paragraph (1) there is substituted—

“(1) The Scheme applies to the liabilities and financial losses described in the following provisions of this regulation.”.

(4) In sub-paragraph (3)(b) at the beginning there is inserted “on or”.

(5) In paragraph (4) after the words “at any time” there is inserted “on or”.

Amendment of regulation 7 of the principal Regulations

5.—(1) Regulation 7 (contributions to the scheme) of the principal Regulations is amended as follows.

(2) In paragraph (4) after the words “which begins after” there is inserted “the membership year beginning”.

St Andrew’s House,
Edinburgh
1st June 2000

SUSAN C DEACON
A member of the Scottish Executive

(3) Section 85B of the National Health Service (Scotland) Act 1978 (c. 29) was amended by the Health Act 1999 (c. 8), Schedule 4, paragraph 56 to insert reference to Special Health Boards as bodies in respect of which Regulations under Section 85B may be made.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Clinical Negligence and Other Risks Indemnity Scheme) (Scotland) Regulations 2000 (S.S.I. 2000/54) (“the principal Regulations”) to correct a number of defects in those Regulations.

Regulation 2 amends the principal Regulations to substitute a new definition of “Special Health Board”. In terms of the new definition, as read with regulation 3(c) of the principal Regulations, any body which is established as a Special Health Board will be a member of the Clinical Negligence and Other Risks Indemnity Scheme (“the scheme”).

Regulation 3 amends regulation 3 of the principal Regulations to delete the references to the Mental Welfare Commission for Scotland and the Scottish Council for Postgraduate Medical and Dental Education. The Mental Welfare Commission is not included in the list of bodies in section 85B(2) of the National Health Service (Scotland) Act 1978 (c. 29) that may be members of the scheme. The Scottish Council for Postgraduate Medical and Dental Education is a Special Health Board, and therefore specific reference to it is unnecessary as it is a member of the scheme by virtue of regulation 3(c) of the principal Regulations.

Regulation 4 amends regulation 4 of the principal Regulations to make clear that the scheme applies to the liabilities and financial losses described in regulation 4 of the principal Regulations. It also provides that the scheme applies to certain liabilities and financial losses occurring on 1st April 2000.

Regulation 5 amends regulation 7 of the principal Regulations to make clear that it relates to any membership year which begins after the membership year beginning 1st April 2000.