
SCOTTISH STATUTORY INSTRUMENTS

2001 No. 72

The National Health Service (Personal Medical Services) (Scotland) Regulations 2001

PART V

MISCELLANEOUS

Parties treated as health service bodies

12.—(1) In the case of an agreement entered into, or to be entered into, by any person or body, that person or body may make an application in accordance with this regulation to become a health service body for the purposes of section 17A of the 1978 Act.

(2) An application under paragraph (1) shall be made in writing to the Scottish Ministers and shall include the name and address of each applicant.

(3) A copy of such application shall be sent by the applicant to the Health Board with which an agreement has been entered into or is to be entered into.

(4) If an application is granted the Scottish Ministers must specify when it is to come into effect and, as from that time, the applicant shall be a health service body for the purposes of section 17A of the 1978 Act.

(5) The grant of an application does not affect the nature of, or any rights or liabilities arising under, any contract entered into by an applicant before the date on which the application comes into effect.

(6) The person or body to whom the status of health service body has been granted shall cease to be a health service body—

- (a) upon withdrawal from an agreement pursuant to regulation 4; or
- (b) upon termination of an agreement; or
- (c) upon that person or body giving notice in writing to the Scottish Ministers and to the Health Board with which an agreement has been entered into or is to be entered into that they have decided to cease to be a health service body.

Enforcement of directions as to payments

13. Any directions, as to payments, made under section 17A(8) of the 1978 Act shall be enforceable in like manner as extract registered decrees arbitral bearing warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

Financial Assistance

14.—(1) A Health Board may make payments of financial assistance for preparatory work undertaken—

- (a) in connection with preparing proposals for arrangements under section 17C of the 1978 Act under which personal medical services are to be provided; or
 - (b) in preparation for the provision of personal medical services under arrangements made under section 17C of the 1978 Act.
- (2) Such payments may be made only following receipt by the Health Board of a written application from one or more of the following:—
- (a) an NHS trust;
 - (b) a suitably experienced medical practitioner;
 - (c) an individual who is providing personal medical services in accordance with arrangements made under section 17C of the 1978 Act or section 28C of the National Health Service Act 1977⁽¹⁾;
 - (d) an NHS employee;
 - (e) a qualifying body,
- and shall be made to the applicant.
- (3) An application for financial assistance shall specify—
- (a) the purposes for which the applicant intends to use the payment of financial assistance for which the applicant has applied; and
 - (b) in the case of an application from a person falling within (2)(b) or (c) above, in connection with preparing proposals for arrangements under section 17C of the 1978 Act, whether those proposals have the support of an NHS trust or a qualifying body and, if so, the identity of that NHS trust or qualifying body;
 - (c) whether, in connection with preparing proposals for arrangements under section 17C of the 1978 Act, the applicant has consulted with
 - (i) the Area Medical Committee;
 - (ii) the Local Health Council;
 - (iii) the local authority; and
 - (iv) any other body representative of any group which is likely to be affected,
 and, if so, what observations have been made by them in respect of the proposals.

Conditions in respect of financial assistance

15.—(1) A Health Board which makes payment of financial assistance to any person under these Regulations shall, on making that payment, require that person—

- (a) to use the payment only for the preparatory work specified in their application and, to the extent that it is unused on the relevant date, to return it to the authority; and
- (b) before the end of the period of four months beginning with the relevant date, to provide such information in writing to the Health Board about the uses to which the payment has been put as the Health Board may reasonably require,

and a person receiving such a payment shall comply with any conditions which the Health Board may impose in writing in connection with those requirements.

(2) A person to whom a payment of financial assistance is made who fails to comply with any of the conditions imposed by the Health Board shall, on demand by the Health Board repay the amount of the payment to the Health Board forthwith.

(3) In this regulation “the relevant date” means—

(1) 1977 c. 49.

- (a) in relation to preparing proposals under regulation 14(1)(a), the date on which those proposals are submitted to the Health Board; or
- (b) in relation to preparation for arrangements under regulation 14(1)(b), the date on which the agreement is entered into.

Liability of performers who provide general medical services and Part II practitioners who perform personal medical services

16.—(1) A performer, who provides general medical services as a deputy to a Part II practitioner, shall be responsible for any act or omission on the part of the performer, which would have been contrary to the terms of service contained in Schedule 1 to the GMS Regulations or (as the case may be) Schedule 2 to the National Health Service (General Medical Services) Regulations 1992⁽²⁾, and that act or omission shall be treated as if it were a breach of those terms of service.

(2) A Part II practitioner, who performs personal medical services as a deputy to a performer, shall be responsible for any act or omission on the part of the Part II practitioner, which both gives rise to a breach of an agreement and would, if the practitioner had been providing general medical services when the act or omission occurred, have been contrary to the terms of service contained in Schedule 1 of the GMS Regulations or (as the case may be) Schedule 1 to the National Health Service (General Medical Services) Regulations 1992, and that act or omission shall be treated as if it were a breach of those terms of service.

(2) S.I.1992/635.