S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2004 No. 114

NATIONAL HEALTH SERVICE

The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004

Consolidated version as at 20.11.2024

Prepared on behalf of GPDF

by DR Solicitors

DR SOLICITORS

Weybourne House

Hitherbury Close

Guildford Surrey GU2 4DR

Tel: 01483 511 555

Fax: 0870 762 0245

E-mail: info@drsolicitors.com

S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2004 No. 114

NATIONAL HEALTH SERVICE

The National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004

Made

10th March 2004

Laid before the Scottish Parliament

11th March 2004

Coming into force

1st April 2004

The Scottish Ministers in exercise of the powers conferred by sections 17P, 32E, 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 and commencement

1.—(1) These Regulations may be cited as the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 and shall come into force on 1st April 2004.

Interpretation

2. In these Regulations–

"the Act" means the National Health Service (Scotland) Act 1978;

~~"the 2001 Regulations" means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(2);~~

"the 2002 Order" means the Medical Act 1983 (Amendment) Order 2002(3);

~~"the 2003 Order" means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(4);~~

~~"the 2008 Regulations …"~~

"the 2004 Act" means the Primary Medical Services (Scotland) Act 2004(5);

"the 2007 Act" means the Protection of Vulnerable Groups (Scotland) Act 2007;

"the Agency" means the Common Services Agency for the Scottish Health Service constituted under section

10 (Common Services Agency) of the Act;

“appliance” means an appliance which is included in a list for the time being approved by the Scottish Ministers for the purposes of section 27(1) of the Act;

“approved medical practice” has the meaning indicated in section 11(4) of the Medical Act 1983(**6**);

“area medical committee” means the committee of that name recognised under section 9 of the Act(**7**) (local consultative committees) in the area of the Health Board;

“area pharmaceutical committee” means the committee of that name recognised under section 9 of the Act (local consultative committees) in the area of the Health Board;

“armed forces GP” means a medical practitioner, who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the armed forces of the Crown, and

(a)

~~before the coming into force of article 10 of the 2003 Order holds either a certificate of prescribed experience under regulation 10 of, or a certificate of equivalent experience under regulation 11 of, the Vocational Training Regulations; or~~

(b)

~~upon the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, is an eligible general medical practitioner pursuant to that paragraph, other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to that Order~~ is entered on the GP Register;

“barred from regulated work” means barred from regulated work with children or adults within the meaning of section 92(1) or (2) (individuals barred from regulated work) of the 2007 Act;

“both registers” means the register of medical practitioners ~~and, after the coming into force of article 10 of the 2003 Order, that register~~ and the GP Register;

“CCT” means Certificate of Completion of Training awarded under ~~article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in article 20(3)(a) of that Order~~ section 34L(1) of the Medical Act 1983;

~~“Committee on Professional Performance” means the Committee on Professional Performance of the General Medical Council referred to in section 1(3) of the Medical Act 1983(**8**);~~

“conditional disqualification” has the meaning indicated in section 29C(1) of the Act(**9**) and includes a decision under provisions in force in England, Wales or Northern Ireland corresponding to a conditional disqualification, and “conditionally disqualified” shall be construed accordingly;

“condition for disqualification” means–

(i)

the first condition for disqualification set out in section 29(6) of the Act;

(ii)

the second condition for disqualification set out in section 29(7) of the Act; or

(iii)

the third condition for disqualification set out in section 29(7A) of the Act;

"considered for listing" means considered for listing by the Scottish Ministers in the children's list or adults' list or in both lists in pursuance of section 10, 11, 12 or 13 (consideration whether to list) of the 2007 Act;

"corresponding decision" has the same meaning as in section 32D of the Act;

"disclosure record" has the meaning given in section 97(1) (general interpretation) of the 2007 Act;

"disclosure request" has the meaning given in section 97(1) of the 2007 Act;

"disqualification" means ~~local or national~~ disqualification by the Tribunal, (or a decision under provisions in force in England, Wales or Northern Ireland corresponding to local or national disqualification), but does not include conditional disqualification, and "disqualified" shall be construed accordingly;

"EEA state" means a ~~Contracting Party to the Agreement on the European Economic Area(10) signed at Oporto on 2nd May 1992 as adjusted by the Protocol(11) signed at Brussels on 17th March 1993~~ member State, Norway, Iceland or Lichtenstein;

"equivalent body" means, in England, [NHS England] ~~the National Health Service Commissioning Board~~ or, in relation to any time prior to 1st April 2013, a Primary Care Trust, in Wales, a Local Health Board or, in Northern Ireland, a Health and Social Services Board;

"equivalent list" means a list kept by an equivalent body;

~~"first condition for disqualification" has the meaning indicated in section 29(6) of the Act(12);~~

"Fitness to Practise Panel" means a panel constituted pursuant to paragraph 19E of Schedule 1 to the Medical Act 1983(13);

"fraud" means matters which it is the function of the Agency to prevent, detect or investigate by virtue of ~~article 3(o) of the National Health Service (Functions of the Common Services Agency) (Scotland) Order 1974(14)~~ article 2 (functions of the Agency) of the National Health Service (Functions of the Common Services Agency) (Scotland) Order 2008;

"General Medical Services Contracts Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018

"GP Register" means the register kept by virtue of section 34C of the Medical Act 1983;

"GP Registrar" means a medical practitioner who is being trained in general practice by a GP Trainer, whether as part of training leading to a CCT or otherwise;

"GP Trainer" means a general medical practitioner, other than a GP Registrar, who is approved by the General Medical Council for the purposes of providing training to a GP Registrar;

"general medical practitioner" means a GP Registrar or–

(a)

on the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the GP Register, otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order; and

(b)

until the coming into force of that article, a medical practitioner who is either–

(i)

until the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, suitably experienced within the meaning of section 21(2) of the Act, section 31(2) of the National Health Service Act 1977(**15**) or Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978(**16**); or

(ii)

upon the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, an eligible general medical practitioner pursuant to that paragraph other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to the 2003 Order;

"General Medical Services Contracts Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**17**);

"GP Register" means the register kept by the General Medical Council under article 10 of the 2003 Order;

"GP Registrar"–

(a)

until the coming into force of article 5 of the 2003 Order, means a medical practitioner who is being trained in general practice by a medical practitioner who–

(i)

has been approved for that purpose by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the Vocational Training Regulations; and

(ii)

performs primary medical services; or

(b)

after the coming into force of that article, means a medical practitioner who is being trained in general practice by a GP Trainer, whether as part of training leading to a CCT, or otherwise;

"GP Trainer" means a medical practitioner, other than a GP Registrar, who is–

(a)

until the coming into force of article 4(5)(d) of the 2003 Order, approved as a GP Trainer by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the Vocational Training Regulations; or

(b)

from the coming into force of that article, approved by the Postgraduate Medical Education and Training Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i) of that Order;

"health case" has the meaning ascribed to it by section 35E(4) of the Medical Act 1983(**18**);

“licensing or regulatory body” means a body that licenses or regulates any profession of which the general medical practitioner is, or has been a member, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

“list” has, unless the context otherwise requires, the same meaning as in section 29(8) of the Act;

“medical practitioner” means a registered medical practitioner, and includes for the purposes of these Regulations, a person provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) , section 21 (provisional registration of EEA nationals etc. with certain overseas qualifications) of the Medical Act 1983(**19**) ~~or a person for the time being registered under section 22 (limited registration of persons by virtue of overseas qualifications) of that Act(**20**) with limited registration~~;

~~“local or national disqualification” has the meaning indicated in section 29B(2) of the Act(**21**);~~

“NHS Education for Scotland” means the body of the same name constituted under the NHS Education for Scotland Order 2002;

“performer” means a person included in a primary medical services performers list;

“pharmacist” means–

(a)

a registered pharmacist within the meaning of the Medicines Act 1968(**22**) who provides pharmaceutical services;

(b)

a person lawfully conducting a retail pharmacy business in accordance with section 69 (general provisions) of that Act(**23**) who provides such services; or

(c)

a supplier of appliances,

who is included in the list of a Health Board under section 27 (arrangements for provision of pharmaceutical services) of the Act(**24**);

“post-registration programme” means a programme of post-registration supervised clinical practice;

“primary medical services performers list” means a list of medical practitioners prepared pursuant to regulation 4(1);

“professional conduct” includes matters relating both to professional conduct and professional performance;

“Professional Conduct Committee” means the Professional Conduct Committee of the General Medical Council referred to in section 1(3) of the Medical Act;

“professional registration number” means the number against the medical practitioner’s name in the register of medical practitioners kept by the General Medical Council;

“provider of primary medical services” means a general medical practitioner, who, in addition to performing primary medical services, provides (including by virtue of being a partner in or member of a partnership or company which so provides) primary medical services in accordance with arrangements under section 2C(2) (functions of Health Boards: primary medical services), an agreement under section 17C (personal medical or dental services) or a general medical services contract under section 17J (Health Board’s power to enter into general medical services contracts) of the Act (**25**);

“register of medical practitioners” has the meaning given to it by section 2(2) of the Medical Act 1983 (**26**);

“relevant Health Board” means a Health Board on whose primary medical services performers list a performer is already included, or a Health Board which an applicant has specified by virtue of regulation 6(2);

“relevant service in the armed forces” means whole time service in the armed forces of the Crown in a national emergency, as a volunteer or otherwise, or a compulsory whole-time service in those forces, including any service resulting from any reserve liability, or any equivalent service by a person liable for compulsory whole-time service in those forces;

“scheme member” means a member of the Scheme, established by section 44 (the Scheme) of the 2007 Act, in relation to both—

(a)

regulated work with children, as defined in section 91(2) (regulated work) of the 2007 Act; and

(b)

regulated work with adults, as defined in section 91(3) of the 2007 Act;

~~“second condition for disqualification” has the meaning indicated in section 29(7) of the Act;~~

“Section 17C Agreements Regulations” means the National Health Service (Primary Medical Services Section 17C Agreement) (Scotland) Regulations 2018;

~~“suspended” means, unless the context otherwise requires, suspended as respects the performance of primary medical services by a direction of the Tribunal made pursuant to section 32A(2) (applications for interim suspension) or 32B(1) (suspension pending appeal) of the Act(**28**) or under any provisions in force in England, Wales or Northern Ireland corresponding thereto~~ “suspended by a Health Board” means suspended by a Health Board in terms of regulation 8A;

“suspended by direction of the Tribunal” means suspended as respects the performance of primary medical services by a direction of the Tribunal made pursuant to section 32A(2) (applications for interim suspension) or section 32B(1) (suspension pending appeal) of the Act or suspended under any provisions in force in England, Wales or Northern Ireland corresponding (whether or not exactly) to those provisions;;

~~“the Vocational Training Regulations” mean the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(**29**);~~

“Tribunal” means the NHS Tribunal constituted in accordance with section 29 of, and Schedule 8 to, the Act;

~~“vocational training scheme” means–~~

~~(a)~~

~~a pre-arranged programme of training which is designed for the purpose of enabling a medical practitioner to gain the medical experience prescribed by regulation 6(1) of the Vocational Training Regulations; or~~

~~(b)~~

~~after the coming into force of article 4 of the 2003 Order, post graduate medical education and training necessary for the award of a CCT under that article; and~~ "vocational training scheme" means postgraduate medical education and training necessary for the award of a CCT in general practice;

"writing" includes, except in regulation 6(1), transmission by electronic means and "written" shall be construed accordingly.

Primary Medical Services Performers

3.—(1) Subject to the provisions of any order made by the Scottish Ministers under section 7 of the 2004 Act (ancillary provisions) and subject to paragraphs (2) and (3), a health care professional who is a medical practitioner may not perform any primary medical service which a Health Board is, under section 2C(1) of the Act(**30**), under a duty to provide or secure the provision of unless that medical practitioner is included in a primary medical services performers list maintained by that Health Board.

(2) A medical practitioner, who is provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) or 21 (provisional registration) of the Medical Act 1983 may perform primary medical services despite not being included in the primary medical services performers list of any Health Board, where those services are performed in the course of the practitioner's employment in a resident medical capacity in an approved medical practice.

(2A) A medical practitioner who falls within paragraph (2B) may perform primary medical services in the area of a Health Board, despite not being included in the primary medical services performers list of that Health Board, but only in so far as the performance of those services constitutes part of a post registration programme approved by the General Medical Council

(2B) A medical practitioner falls within this paragraph if the medical practitioner–

(a)is not a GP Registrar;

(b)is undertaking a post registration programme;

(c)has notified the Health Board that he or she will be undertaking part or all of a post registration programme in its area at least 24 hours before commencing any part of that programme; and

(d)has, with that notification, provided the Health Board with evidence sufficient for it to satisfy itself that the medical practitioner is undergoing a post registration programme.

(3) A GP Registrar, who has applied in accordance with these Regulations to a Health Board to have the GP Registrar's name included in a primary medical services performers list maintained by that Health Board, may, despite not being included in that list, perform any primary medical service which that Health Board is,

under section 2C(1) of the Act, under a duty to provide or secure the provision of, until the first of the following events arises:–

(a)the Board notifies the GP Registrar of the Board's decision on that application;

(b)the end of a period of 2 months, starting with the date on which the GP Registrar's vocational training scheme begins.

Temporary exception under the Coronavirus Act 2020

3A—~~(1) A person who is registered in the GP Register by virtue of section 18A of the Medical Act 1983 (temporary registration with regard to emergencies) may perform primary medical services, despite not being included in the primary medical services performers list of a Health Board, provided that—~~

~~(a)the person has made an application to a Health Board for inclusion in the list under regulation 6, and~~

~~(b)the person's application has not been refused or deferred under regulation 7 or 7B.~~

~~(2) But a person may only perform primary medical services by virtue of this regulation in the area of a Health Board whose list they have applied to be included in.~~

~~(3) Regulation 8 applies to a person who performs primary medical services by virtue of this regulation as it applies to a performer included in a primary medical services performers list (and the references to a "performer" in paragraph 3 of Schedule 1 are to be read as if they included persons who perform primary medical services by virtue of this regulation).~~

Primary Medical Services Performers Lists

4.—(1) Each Health Board shall prepare in accordance with these Regulations a primary medical services performers list of medical practitioners who may perform primary medical services for which that Health Board is, under section 2C(1) of the Act, under a duty to provide or secure the provision of.

(2) A primary medical services performers list shall contain in respect of each performer included in the list the following information:–

(a)the full name and professional registration number of the performer;

(b)provided that the performer consents to its inclusion, the date of birth, or, if there is no consent, the date of first full registration as a medical practitioner (whether pursuant to the Medical Act 1983 or otherwise), of the performer;

(c)if the performer is also a provider of primary medical services, that the performer is one;

(d)if the performer is a GP Registrar, that the performer is one; and

(e)if the performer is an armed forces GP, that the performer is one.

Publication of primary medical services performers lists

5.—(1) A Health Board shall publish and make available for inspection, at such places as appear to it convenient for informing all persons interested within the Health Board's area, copies of the primary medical services performers list and shall keep them up to date.

(2) A Health Board shall send a copy of the primary medical services performers list to–

(a)the Scottish Ministers;

(b)the area medical committee;

(c)the area pharmaceutical committee; and

(d)all pharmacists providing pharmaceutical services in the Health Board's area,

at intervals of not more than 3 months.

~~**Application for inclusion in the primary medical services performers list**~~

~~**6.**—(1) An application by a person for inclusion in a primary medical services performers list of a Health Board shall be made in writing to the Health Board and shall include the documents, information, undertakings and declarations specified in Schedule 1.~~

~~(2) Before determining an application, a Health Board shall–~~

~~(a)check so far as practicable, the information provided by the applicant and any relevant documents;~~

~~(b)take up the references that the applicant provided in accordance with paragraph 1(g) of Schedule 1; and~~

~~(c)check with the Agency whether the applicant has any record of fraud, which information the Agency shall supply unless it would prejudice any criminal proceedings or the prevention, detection or investigation of fraud.~~

~~(3) If a Health Board considers that further information or documents, in addition to the documents, information and undertakings provided by the applicant in accordance with paragraph (1), are necessary to determine the applicant's application, the Health Board shall require the applicant to provide such further information or documents as are necessary before the Health Board shall determine an application in accordance with this regulation.~~

Application for inclusion in the primary medical services performers list and notification of changes

6.—(1) An application by a person for inclusion in a primary medical services performers list shall be made in writing and shall include the information, declarations, undertakings, consents, disclosure request and disclosure record specified in Schedule 1.

(2) An application may specify other Health Boards on whose primary medical services performers list the applicant wishes to be included.

(3) Before determining an application a Health Board shall—

(a)check so far as practicable, the information provided by the applicant and any documents which the applicant is required to produce in terms of these Regulations;

(b)seek and examine references from the referees that the applicant has provided in accordance with paragraph 1(g) of Schedule 1;

(c)ask the Agency whether the applicant has any record of fraud, or is currently, or at any time has been, the subject of any investigation by the Agency, which information the Agency shall supply unless it would prejudice any criminal proceedings or the prevention, detection or investigation of fraud;

(d)obtain a disclosure record; and

(e)notify any other Health Board which the applicant has specified in the application for the purposes of paragraph (2).

(4) If a Health Board considers that further information to that provided by the applicant in accordance with paragraph (1) is necessary to determine the application, the Health Board shall require the applicant to provide it.

(5) Where the Health Board considers that there may be grounds for referral to the Tribunal, then the Health Board may refer the matter to the Tribunal.

(6) Notwithstanding paragraphs (3) and (4), where an applicant is already included on another Health Board's primary medical services performers list, the Health Board to whom the application has been made may include that applicant in its primary medical services performers list without further enquiry.

(7) An applicant shall notify the Health Board in writing if there is a change to any of the information which that applicant has provided as soon as possible.

Decisions and grounds for refusal and deferral

7.—(1) A Health Board shall refuse to include the name of an applicant in its primary medical services performers list if–

(a)the applicant is not a general medical practitioner;

(b)the applicant is –

(i)the subject of a direction given by the Professional Conduct Committee under section 36 (professional misconduct and criminal offences) of the Medical Act 1983(**31**);

(ii)the subject of an order made by the Professional Conduct Committee under section 38(1) (power to order immediate suspension after a finding of professional misconduct or unfitness to practice) of that Act(**32**);

(iii)from the coming into force of article 13 of the 2002 Order, the subject of a direction by a Fitness to Practise Panel for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), 10(a) or (b), or (12)(a) or (b) (functions of a Fitness to Practise Panel), or section 38(1) (power to order immediate suspension etc) of that Act(**33**); or

(iv)from the coming into force of article 14 of the 2002 Order, the subject of a direction by a Fitness to Practise Panel suspending him pursuant to rules made under paragraph 5A(3) of Schedule 4 of that Act(**34**);

(c)the applicant has been convicted in the United Kingdom of murder;

(d)the applicant has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of over 6 months;

(e)having contacted referees provided by the applicant, the Health Board is not satisfied with the references (if any) provided by the referees; ~~or~~

(f)the Health Board is not satisfied that the applicant has the knowledge of English which, in the interests of the applicant and of patients who may receive primary medical services from the applicant, is necessary for performing primary medical services; or

(g)the applicant is not a scheme member.

(2) Paragraph (1) is without prejudice to any duty on a Health Board not to–

(a)enter an applicant in a primary medical service performers list by virtue of that applicant being disqualified under section 29B(2), 30(2) or (5) ~~or 31(1)~~ of the Act(**35**);

(b)enter an applicant in a primary medical services performers list by virtue of that applicant being suspended under section 32A, or 32B ~~or 32D~~ of the Act (**36**); or

(c)add the applicant to a primary medical services performers list by virtue of ~~regulation 26(1) (practitioners subject to inquiry in a fraud case)~~regulation 26 (practitioners subject to inquiry) of the National Health Service (Tribunal) (Scotland) Regulations 2004(**37**).

(3) When a Health Board has decided whether or not to include an applicant in its primary medical services performers list, the Health Board shall notify the applicant and any relevant Health Board within 7 days of that decision of –

(a)that decision; and

(b)if the Health Board has decided not to include the applicant, the reasons for that (including any facts upon which the Health Board has relied) and of the right of appeal under regulation 13 against that decision.

(3A) When a Health Board includes an applicant in its primary medical services performers list, any other Health Board which that applicant has specified by virtue of regulation 6(2) may include the applicant in its primary medical services performers list without further enquiry.

(4) Without prejudice to the Health Board's power under section 29 of the Act (the NHS Tribunal) to make representations to the Tribunal that an applicant meets ~~the second~~ a condition for disqualification, a Health Board shall defer determination of an application for inclusion in a primary medical services performers list where–

(a)the applicant is the subject of criminal proceedings in the United Kingdom or elsewhere in the world, conviction in respect of which would be likely to lead to refusal to include in, or removal from, a primary medical services performers list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets ~~the first condition for disqualification (if the applicant were included in the list), or the second~~ a condition for disqualification;

(b)the applicant is the subject of an investigation or proceedings relating to the applicant's professional conduct by any licensing or regulatory body (including one by the Agency or another Health Board or equivalent body) in the United Kingdom or elsewhere in the world, the outcome of which would be likely to lead to refusal to include in, or removal from, a primary medical services performers list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets ~~the first condition for disqualification (if the applicant were included in the list) or second~~ a condition for disqualification; ~~or~~

(c)the applicant is the subject of other proceedings in the United Kingdom which would be likely to result in the applicant being disqualified, removed or suspended from an equivalent list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets ~~the first condition for disqualification (if the applicant were included in the list), or second~~ a condition for disqualification~~,~~

~~and the Health Board shall notify the applicant of the deferral and the reasons for the deferral in writing~~;;

(d)the applicant is suspended by a Health Board, or is suspended from an equivalent list by an equivalent body; or

(e)the applicant is being considered for listing and the Health Board is satisfied that it is necessary for the protection of members of the public that the application is deferred,

and the Health Board shall notify the applicant and any relevant Health Board of the deferral and the reasons for the deferral in writing,

(5) A Health Board shall defer a determination under ~~paragraph (3)~~ paragraph (4) only until the outcome of the relevant event is known.

(5A) On the expiry of section 4 of the Coronavirus Act 2020, paragraphs (6A) and (7A) shall apply to any application the determination of which was deferred under regulation 7B(4) (grounds for refusal and deferral under the Coronavirus Act 2020)

(6) Once the outcome of the relevant event is known, the Health Board shall require the applicant to confirm that the applicant wishes to proceed with the application and provide details of any changes to the application, and any information included in the application, within 28 days (or such longer period as the Health Board specifies).

(6A) As soon as is reasonably practicable after the expiry of section 4 of the Coronavirus Act 2020, the Health Board shall require an applicant whose application was deferred under regulation 7B(4) to confirm that the applicant

wishes to proceed with the application and to provide details of any changes to the application, and any information included in the application, within 28 days (or such longer period as the Health Board specifies).

(7) On the expiry of the period of 28 days (or such longer period as the Health Board has specified) referred to in paragraph (6), the Health Board shall again consider the application and notify the applicant and any relevant Health Board of its determination and the reasons for it (including any facts relied on) and, where the Health Board refuses the application for inclusion, of the applicant's right of appeal under regulation 13.

(7A) On the expiry of the period referred to in paragraph (6A), the Health Board shall again consider the application and notify the applicant and any relevant Health Board of its determination and the reasons for it (including any facts relied on), and where the Health Board refuses the application for inclusion, of the applicant's right to appeal under regulation 13 (appeal to the Scottish Ministers).

(8) In this regulation "the outcome of the relevant event" means the final determination of any proceedings (including proceedings pending the determination of which the applicant is suspended) or investigation referred to in paragraph (4)(a) to ~~(c)~~(e).

Effect to be given to corresponding decisions in England, Wales and Northern Ireland

7A.—(1) A Health Board shall not include the name of any person in its primary medical services performers list, and shall remove the name of any person from its primary medical services performers list, if any decision has been made in England, Wales or Northern Ireland to deal with that person in any way which corresponds (whether or not exactly) with a way in which a person may be dealt with under section 29B(2), 30(2) or (5) or 32B(1) of the Act, for so long as that decision is in force.

(2) Where any corresponding decision is made in England, Wales or Northern Ireland by an equivalent body that–

(a)a person is to be included in an equivalent list subject to conditions; or

(b)a person is to be removed from an equivalent list contingent on conditions; or

(c)a person is to be disqualified from an equivalent list subject to conditions; or

(d)any conditions so imposed are varied,

a Health Board shall impose those conditions in relation to the performance, by that person of primary medical services in the area of the Health Board.

(3) The Health Board may make such modifications of the conditions referred to in paragraph (2) as it considers necessary for them to have the like effect in relation to Scotland as they do in relation to England, Wales or (as the case may be) Northern Ireland, but only if the Health Board has previously given the person concerned written notice of the proposed modifications and an opportunity to make representations about them.

Grounds for refusal and deferral under the Coronavirus Act 2020

~~**7B**—(1) This regulation applies where a person who is registered in the GP Register by virtue of section 18A of the Medical Act 1983 (temporary registration with regard to emergencies) has made an application to a Health Board for inclusion in its primary medical services performers list.~~

~~(2) But this regulation does not affect a Health Board's duties imposed by regulation 7 to refuse or defer an application by such a person.~~

~~(3) A Health Board may refuse the person's application for inclusion in its primary medical services performers list if—~~

~~(a)the Health Board has received an allegation (in any manner) about either—~~

~~(i)conduct by the person about which the Health Board would have the power to make representations to the NHS Tribunal under section 29 of the National Health Service (Scotland) Act 1978, or~~

~~(ii)the person's involvement in a matter which they would be under a duty to disclose under paragraph 3 of Schedule 1, and~~

~~(b)the nature of the allegation is such that, were the person already included in its list, the Health Board would be satisfied that it would be necessary for the protection of members of the public, or otherwise in the public interest, to suspend the person from its list while it considered whether to remove them from its list.~~

~~(4) A Health Board may defer determination of the person's application for inclusion in its primary medical services performers list if—~~

~~(a)the person has declared any matter specified in paragraph 2(c) to (o) of Schedule 1, and~~

~~(b)the Health Board is satisfied that it is necessary for the protection of members of the public, or otherwise in the public interest, to complete its consideration of the person's application before the person is permitted to perform primary medical services.~~

~~(5) Unless paragraph (6) applies, a person whose application is refused by a Health Board under paragraph (3) may not reapply for inclusion in the primary medical services performers list of any Health Board.~~

~~(6) This paragraph applies where a person subsequently becomes registered in the GP Register as a fully registered person, within the meaning given by section 55(1) of the Medical Act 1983, otherwise than by virtue of section 18A of that Act.~~

~~(7) A Health Board must notify an applicant in writing of a determination made under this regulation, and the reasons for it, within 7 days of making the determination.~~

~~(8) An applicant may not appeal any determination made by a Health Board under this regulation.~~

Requirements with which a medical practitioner included in a primary medical services' performers list must comply

8.—(1) A performer included in a primary medical services performers list shall–

(a)exercise a reasonable standard of professional and clinical judgement, behaviour, skill, knowledge and care towards patients who receive primary medical services from the performer, and in the prescribing or dispensing of any drugs, medicines or appliances to them; and

(b)comply with the undertakings specified in paragraph 3 of Schedule 1 and any other requirement of these Regulations.

(2) A performer included in a primary medical services performers list shall comply with the undertakings specified in paragraph 3 of Schedule 1 whether or not those undertakings were included in an application by the performer under regulation 6.

Suspension

8A.—(1) If a Health Board is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a medical practitioner from its primary medical services performers list in accordance with this regulation—

(a)while it considers whether to remove that person from its primary medical services performers list under regulation 9 or 10;

(b)while it waits for a decision affecting that person of a court anywhere in the world, or of a licensing or regulatory body;

(c)while it considers whether to refer that person to the Tribunal;

(d)while it awaits a finding by the Tribunal or other equivalent body;

(e)where it has decided to remove that person from its primary medical services performers list but before that decision takes effect;

(f)while it awaits a decision on any appeal under regulation 13(1)(b);

(g)while that person is being considered for listing.

(2) In paragraph (1)(b), "decision" means the final determination of the relevant proceedings, after any appeal or other review procedure has been exhausted.

(3) In a case falling within paragraph (1)(a) or (c), the Health Board must specify a period, not exceeding six months, as the period of suspension, and such period may be extended so long as the aggregate period of suspension does not exceed six months.

(4) In a case falling within paragraph (1)(b), the Health Board may specify that the medical practitioner remains suspended after the decision referred to in that paragraph has been made for an additional period, not exceeding six months and such period may be extended, so long as the aggregate additional period of suspension does not exceed six months.

(5) If the Health Board suspends a medical practitioner in a case falling within paragraph (1)(e) the suspension has effect from the date the Board informs that person of the suspension.

(6) A medical practitioner who is suspended by a Health Board is to be treated as not being included in the primary medical services performers list during the period of suspension.

(7) The Health Board may at any time revoke the suspension and notify the medical practitioner of its decision.

(8) Except for a case falling within paragraph (1)(e), where a Health Board is considering suspending a medical practitioner or varying the period of suspension under this regulation, it shall give the medical practitioner—

(a)notice of any allegation against that person;

(b)notice of what action it is considering and on what grounds; and

(c)the opportunity to attend a hearing before the Health Board, on a specified day, provided that at least 24 hours' notice of the hearing is given.

(9) If the medical practitioner does not wish to have a hearing or does not attend the hearing without a reasonable excuse, the Health Board may suspend that person with immediate effect.

(10) The Health Board may suspend the medical practitioner with immediate effect following the hearing.

(11) The Health Board shall notify the medical practitioner of its decision and the reasons for it within 7 days of making that decision.

Removal from primary medical services performers lists

9.—(1) In addition to any duty on a Health Board under the Act not to continue to include a performer by virtue of that performer's disqualification or to remove the performer by virtue of the performer being suspended by direction of the Tribunal, where a Health Board determines that a performer who has been included in a primary medical services performers list–

(a)has died;

(b)is no longer a general medical practitioner;

(c)is–

(i)the subject of a direction given by the Professional Conduct Committee under section 36 (professional misconduct and criminal offences) of the Medical Act 1983;

(ii)the subject of an order made by the Professional Conduct Committee under section 38(1) (power to order immediate suspension after a finding of professional misconduct or unfitness to practice)of that Act;

(iii)from the coming into force of article 13 of the 2002 Order, the subject of a direction by a Fitness to Practise Panel for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), 10(a) or (b), or (12)(a) or (b) (functions of a Fitness to Practise Panel), or 38(1) (power to order immediate suspension etc) of that Act; or

(iv)from the coming into force of article 14 of the 2002 Order, the subject of a direction by a Fitness to Practise Panel suspending him pursuant to rules made under paragraph 5A(3) of Schedule 4 to that Act;

(d)has been convicted in the United Kingdom of murder; ~~or~~

(e)has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of over 6 months~~,~~;

the Health Board shall remove the performer from the primary medical services performers list with effect from the date of its determination or, in the circumstances mentioned in sub paragraph (c) above, the date on which the direction or order takes effect, if that date is later than the date of the Board's determination, and shall notify the performer as soon as practicable of the removal and the reasons for the removal in writing.

(2) Paragraph (1) is without prejudice to any duty on a Health Board to–

(a)remove a performer from a primary medical service performers list by virtue of that performer being disqualified under section 29B(2), 30(2) or (5) ~~or 31(1)~~ of the Act; or

(b)remove a performer from a primary medical services performers list by virtue of that applicant being suspended under section 32A, or 32B ~~or 32D~~ of the Act.

Removal from the primary medical services performers list of medical practitioners not performing primary medical services

10.—(1) Where a Health Board has determined, in accordance with the provisions of this regulation, that a performer who is included in the primary medical services performers list has not, for the preceding 12 months, performed primary medical services which that Health Board is, under section 2C(1) of the Act(**38**), under a duty to provide or secure the provision of, the Health Board may remove the performer from the primary medical ~~service~~services performers list, unless the Scottish Ministers direct to the contrary in accordance with regulation 13(11).

(2) In calculating the period of 12 months referred to in paragraph (1) the Health Board shall disregard any period during which the performer–

(a)was not included in the primary medical ~~service~~services performers list;

(b)was suspended by direction of the Tribunal or was suspended by a Health Board;

(c)was suspended–

(i)before the coming into force of article 13 of the 2002 Order by a committee of the General Medical Council pursuant to section 37 or 41A of the Medical Act 1983(**39**);

(ii)after the coming into force of that article, by a Fitness to Practise Panel pursuant to section 41A(1)(a) of that Act(**40**); or

(iii)after the coming into force of that article, in a health case;

(d)was an armed forces GP or performing a period of relevant service in the armed forces.

(3) Before making any determination under paragraph (1) the Health Board shall–

(a)send the performer notice in writing of its intention to remove the performer from the primary medical services performers list and the reasons for that intention;

(b)give the performer the opportunity to make written representations to the Health Board within 30 days of the date of the notification under sub-paragraph (a); and

(c)give the performer the opportunity to make oral representations, if the medical practitioner so requests, within 30 days of the date of notification under sub-paragraph (a).

(4) If the performer requests the opportunity to make oral representations pursuant to paragraph (3)(c), the Health Board shall appoint a committee, of which at least one-third of the members shall be general medical practitioners, to consider those representations and make a recommendation to the Health Board.

(5) If there are no representations within 30 days of the date of notification under paragraph (3)(a) the Health Board shall inform the performer in writing of–

(a)its determination and the reasons for it (including any facts relied upon); and

(b)any right of appeal under regulation 13,

within 7 days of making that determination, and where the Health Board has determined that the performer is to be removed from the primary medical services performers list it shall give the performer 30 days' notice in writing of the date on which the performer will be removed.

(6) Where there are representations by the performer pursuant to paragraph (3)(b) or (c) the Health Board shall take those representations or any recommendation made by the committee appointed in accordance with paragraph (4) into account before reaching its decision, and shall then notify the performer in writing of–

(a)its determination and the reasons for it (including any facts relied upon); and

(b)any right of appeal under regulation 13 (appeal to the Scottish Ministers),

within 7 days of making that determination, and where the Health Board has determined that the performer is to be removed from the primary medical services performer’s list it shall give the performer 30 days' notice in writing of the date on which the performer will be removed.

(7) Where a ~~medical practitioner~~performer has appealed to the Scottish Ministers, in accordance with regulation 13, within 21 days of the date on which notice of the determination of the Health Board was given to the performer and the decision on any such appeal is pending, a Health Board shall not remove, by reason of the determination against which appeal has been lodged, that performer from the primary medical services performers list.

(8) No determination under this regulation shall be made in respect of any performer who has completed a period of relevant service in the armed forces until 12 months after the date when the performer completed that period of relevant service in the armed forces.

Re-inclusion in a primary medical service performers list

11. Where a person's name has been removed from a primary medical services ~~performer's~~performers list on grounds of conviction of a criminal offence and either–

(a)that conviction is overturned on appeal; or

(b)the sentence is reduced on appeal to 6 months or less imprisonment,

the Health Board may include that person in the primary medical services performers list without an application being made in accordance with regulation 6 if the Health Board is satisfied that there is no further information which it should consider, and provided that the Health Board receives undertakings from the ~~practitioner~~person to comply with these Regulations.

Amendment or withdrawal from primary medical services performers lists

12.—(1) A performer shall, unless it is impracticable to do so, give notice in writing to the Health Board within ~~30~~7 days from the date of any occurrence requiring a change in the information recorded on a primary medical services performers list.

(2) A performer shall, unless it is impracticable to do so, give notice in writing to the Health Board at least 90 days in advance of any date on which the performer intends to withdraw from the primary medical services performers list.

(3) The Health Board shall, on receiving notice ~~from any performer–~~

(a)pursuant to paragraph (1) as soon as practicable so amend the primary medical services performers list;

(b)pursuant to paragraph (2) so amend the primary medical services performers list, either–

(i)on the date which falls 90 days after the date the notice was received, or, if later, the date on which the performer has indicated in the notice the performer intends to withdraw; or

(ii)on the date from which the Health Board has agreed with the performer that the withdrawal shall take effect,

whichever is the earlier.

(4) Any notice given pursuant to paragraph (2) may not be withdrawn by the performer except with the consent of the Health Board.

(5) Where, in relation to a performer representations are made to the Tribunal under section 29 of the Act (the NHS Tribunal), or a request for a review has been made to the Tribunal or a review is to be made by the Tribunal under section 30 of the Act (review etc. of disqualification), that performer shall not, except with the consent of the Scottish Ministers and subject to such conditions as they may impose, be entitled to withdraw from the list until the proceedings on such representations, request for review or review have been determined.

Appeal to the Scottish Ministers

13.— (A1) This regulation does not apply where a person's application for inclusion in a primary medical services performers list is refused under regulation 7B(3).

(1) A person may appeal–

(a)on a point of law to the Scottish Ministers where the person's application for inclusion in a primary medical services performers list is refused under regulation 7;

(b)for a re-determination by the Scottish Ministers of a determination of a Health Board to remove the person from the primary medical services performers list pursuant to regulation 10(1).

(2) A person may appeal by sending a notice of appeal to the Scottish Ministers, a copy of which shall be sent at the same time to the Health Board, within 21 days, or within such longer period as the Scottish Ministers for reasonable cause allow, of the date on which notice of the determination of the Health Board was given to the person.

(3) A notice of appeal shall contain–

(a)in the case of an appeal referred to in paragraph (1)(a) a concise statement of the point or points of law in respect of which the person contends that the decision of the Health Board is erroneous;

(b)in the case of an appeal referred to in paragraph (1)(b) the facts and contentions on which the person seeks to rely.

(4) If it appears to the Scottish Ministers that an appeal referred to in paragraph (1)(a) is of such a nature that it can properly be determined without a hearing, they may determine the appeal summarily without a hearing and shall give their decision in writing, with reasons for that decision, and send it to the appellant and the Health Board.

(5) If the Scottish Ministers are of the opinion that a hearing is required, or in relation to any appeal referred to in paragraph (1)(b), they shall appoint–

(a)a person who is an advocate, a solicitor or a solicitor-advocate; and

(b)where they see fit, one or more other persons,

to hear the appeal.

(6) A hearing may take place at such time and place as the Scottish Ministers may direct and notice of the hearing shall be sent by post to the appellant and the Health Board not less than 14 days before the date fixed for the hearing.

(7) The appellant may attend and be heard in person or by counsel or solicitor or other representative and the Health Board may be represented at the hearing by any duly authorised official or by counsel or solicitor.

(8) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the person or persons hearing the appeal may determine.

(9) The person or persons hearing the appeal shall report thereon to the Scottish Ministers, stating the relevant facts and conclusions, and the Scottish Ministers after taking such report into consideration shall give their decision in writing, with reasons for that decision and send it to the appellant and the Health Board.

(10) Where, on allowing an appeal referred to in paragraph (1)(a), the Scottish Ministers remit an application to the Board for reconsideration–

(a)they shall give to the Health Board such directions as appear to them to be desirable with a view to ensuring the proper determination of the matter in accordance with the relevant law; and

(b)the Health Board shall re-determine the application and in so doing shall comply with any such directions given by the Scottish Ministers.

(11) Where the Scottish Ministers allow an appeal referred to in paragraph (1)(b) they shall direct the Health Board not to remove the performer from the primary medical services performers list by reason of the determination appealed against, or, where the person has been removed, direct the Health Board to re-include the person in the primary medical services performers list, and not to remove the person by reason of the determination appealed against.

Disclosure of information

14.—(1) Where a Health Board decides to–

(a)refuse to admit a person to the Board's primary medical services performers list on the grounds specified in regulation 7(1);

(b)remove a performer from that list under regulation 9 or 10 ;

(c)suspend a performer from that list, or end a suspension under regulation 8A;

the Health Board shall notify the persons or bodies specified in paragraph (2) within 7 days of that decision, and shall additionally notify those persons or bodies specified in paragraph (3), if requested to do so by those persons or bodies in writing, of the matters set out in paragraph (4).

(2) The persons or bodies to be notified within 7 days in accordance with paragraph (1) are–

(a)the Scottish Ministers;

(b)any other Health Board or equivalent body that, to the knowledge of the notifying Board–

(i)has the person on any list or equivalent list,

(ii)is considering an application for inclusion in any list or equivalent list by that person; or

(iii)is investigating an allegation against that person;

(c)the Secretary of State;

(d)the National Assembly for Wales;

(e)the Northern Ireland Executive;

(f)the General Medical Council or any other appropriate regulatory body;

(g)~~where an allegation of fraud is being considered,~~ the Agency;

(3) The persons or bodies to be additionally notified in accordance with paragraph (1) are–

(a)persons or bodies that can establish that they are or were employing that person, using or used that person's services or considering employing that person or using that person's services in a professional capacity;

(b)a partnership which provides primary medical services which can establish that the person is or was a member of the partnership or that it is considering inviting the person to become such a member;

(c)a corporate body which provides primary medical services which can establish that ~~that~~ the person is or was–

(i)a member;

(ii)a legal and beneficial shareholder;

(iii)a director or secretary; or

(iv)one of the body of persons with control,

of that corporate body, or that the corporate body was considering inviting the person to become such a person.

(4) The matters referred to in paragraph (1) are–

(a)the person's name, address and date of birth;

(b)the person's professional registration number;

(c)the date of and a copy of the Health Board's decision; and

(d)a contact name of a person in the Health Board for further enquiries.

(5) The Health Board shall send to the person concerned a copy of any information about that person provided to the persons or bodies listed in paragraph (2) or (3), and any correspondence with that person or body relating to that information.

(6) Where the Health Board has notified any of the persons or bodies specified in paragraph (2) or (3) of the matters set out in paragraph (4), it may, in addition, if requested by that person or body, notify that person or body of any evidence that was considered, including any representations from the performer.

(7) Where a decision is changed on appeal the Health Board shall notify the persons or bodies that were notified of the original decision of the later decision.

(8) A Health Board may disclose information about a performer supplied to it or acquired by it pursuant to these Regulations, or about references by the Health Board to the Tribunal to any of the following persons or bodies:–

(a)the Scottish Ministers;

(b)any other Health Board or equivalent body, which–

(i)has the person to whom the information relates on any list or equivalent list;

(ii)is considering an application from such a person for inclusion in any list or equivalent list;

(iii)is investigating an allegation against that person;

(c)the Secretary of State;

(d)the National Assembly for Wales;

(e)the Northern Ireland Executive;

(f)the General Medical Council or any other licensing or regulatory body;

(g)~~where an allegation of fraud is being considered,~~ the Agency;

(h)persons or bodies that can establish that they are or were employing that person, using or used that person's services or considering employing that person or using that person's services in a professional capacity;

(i)a partnership which provides primary medical services which can establish that the person is or was a member of the partnership or that it is considering inviting the person to become such a member; ~~and~~

(j)a corporate body which provides primary medical services which can establish that ~~that~~ the person is or was–

(i)a member;

(ii)a legal and beneficial shareholder;

(iii)a director or secretary; or

(iv)one of the body of persons with control,

of that corporate body, or that the corporate body was considering inviting the person to become such a person; and

(k) NHS Education for Scotland.

Payments to suspended medical practitioners

15.—(1) ~~A Health Board shall make payments, in accordance with any determination by the Scottish Ministers, to any performer whose name appears on a primary medical services performers list and who is suspended.~~ A Health Board shall make payments to any performer who is suspended by a Health Board or suspended by direction of the Tribunal, in accordance with any determination by the Scottish Ministers.

(2) Any determination under paragraph (1) shall be made in accordance with paragraph (3) after consultation with such persons as the Scottish Ministers consider appropriate.

(3) Any determination under paragraph (1)–

(a)shall, determine any sum payable by reference to remuneration which the performer might have received during the period the performer was suspended; and

(b)may also determine any sum payable by reference to any other payment received or which might have been received by the performer.

(4) Any determination under paragraph (1) may be amended from time to time by the Scottish Ministers after consultation with such persons as they consider appropriate.

(5) If a payment is made pursuant to a determination under paragraph (1), but the payee was not entitled to receive all or any part of that payment, the amount overpaid shall be recoverable as a debt by any lawful means.

(6) If a performer is dissatisfied with a decision of a Health Board ("the original decision")—

(a)pursuant to a determination under paragraph (1); or

(b)in respect of recovery of what the Health Board considers to be an overpayment,

that performer may ask the Health Board to review the original decision, and the Health Board shall reconsider that decision and notify the performer in writing of the outcome of that reconsideration ("the reconsidered decision").

(7) If the performer remains dissatisfied, that performer may appeal to the Scottish Ministers by giving them a notice of appeal within 28 days beginning on the day that the Health Board notified the performer of the reconsidered decision.

(8) The notice of appeal must include—

(a)the names and addresses of the parties to the disputed decision;

(b)a copy of the reconsidered decision; and

(c)a statement of the grounds for appeal.

(9) The Scottish Ministers must thereafter send a written request to the parties to make, in writing and within a specified period, any representations about the matter.

(10) Once the period specified pursuant to paragraph (9) has elapsed, the Scottish Ministers must—

(a)give a copy of any representations received from a party to any other party; and

(b)request within a specified period any written observations which that party wishes to make on those representations.

(11) The Scottish Ministers may determine the appeal themselves or, if they consider it appropriate appoint another person or panel (referred to as "the panel") to consider and determine the appeal.

(12) Once the period specified pursuant to paragraph (10)(b) has elapsed, the Scottish Ministers or the panel, must, as soon as is reasonably practicable, determine the appeal, and give notice of the determination to both parties.

Revocations

16. Subject to the provisions of any order made by the Scottish Ministers under section 7 of the 2004 Act (ancillary provisions), the Regulations specified in column (1) of Schedule 2 are hereby revoked to the extent specified in column (3) of that Schedule.

MALCOLM CHISHOLM
A member of the Scottish Executive

St Andrew's House, Edinburgh
10th March 2004

Regulation 6(1)

SCHEDULE 1

INFORMATION, DECLARATIONS, ~~AND~~ UNDERTAKINGS, CONSENTS, DISCLOSURE REQUEST AND DISCLOSURE RECORD TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN A PRIMARY MEDICAL SERVICES PERFORMERS' LIST

1. An application shall contain the following information:–

(a)the applicant's full name, sex, date of birth and private address and telephone number;

(b)a full description of the applicant's medical qualifications including the institution which awarded them;

(c)the applicant's professional registration number and date of first registration in both registers;

(d)chronological details of the applicant's professional experience (including the starting and finishing dates of each appointment together with explanation of any gaps between appointments) with any additional supporting particulars, and an explanation of why the applicant was dismissed from any post;

(e)in relation to the applicant's professional experience provided under (d), the applicant shall separate that information into –

(i)general practice experience;

(ii)hospital appointments; and

(iii)other experience (including obstetric experience),

with full supporting particulars of that experience;

(ea)whether the applicant is included on another Health Board's primary medical services performers list;

(f)details of any list or equivalent list from which the applicant has ever been disqualified, conditionally disqualified, removed or suspended or to which admission was refused together with reasons for disqualification, conditional disqualification, removal, suspension or refusal;

(g)name and addresses of two referees who are willing to provide clinical references relating to two recent posts as a medical practitioner which lasted at least 3 months without a significant break and which may include a current post, or, where this is not possible a full explanation and name and address of an alternative referee or referees;

(h)if the applicant is a national of an EEA state, evidence that the applicant has a knowledge of English which, in the interests of the applicant and of patients who may receive primary medical services from the applicant, is necessary for performing primary medical services;

(i)whether the applicant is a provider of primary medical services;

(j)if the applicant is a provider of primary medical services, whether the applicant is a provider under more than one arrangement, agreement or contract to provide primary medical services and, if so, details of the other arrangement(s), agreement(s) or contract(s);

(k)if the applicant is the director or one of the persons with control of a corporate body, the name and registered office of that body;

(l)whether the applicant is an armed forces GP;

(m)if the applicant is a GP Registrar, the name and address of the GP Trainer;

2. An application shall contain the following declarations as to whether or not the applicant:–

(a)is a medical practitioner included in both registers;

(b)~~if the applicant is a GP Registrar, and is not a fully registered medical practitioner included in register of medical practitioners, that the applicant is registered in that register with limited registration, with details of the limits of that registration, as defined in the direction by virtue of which the applicant is registered;~~

(c)has been convicted of a criminal offence in the United Kingdom;

(d)has been convicted elsewhere of an offence which would constitute a criminal offence if committed in Scotland;

(e)is currently the subject of any proceedings anywhere in the world which might lead to a conviction specified in sub paragraph (c) or (d);

(f)has in summary proceedings in respect of an offence, been the subject of an order discharging the applicant absolutely (without proceeding to conviction);

(g)has accepted and agreed to pay either a ~~procurator fiscal fine~~fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995(**41**) or a penalty under section 115A of the Social Security Administration Act 1992(**42**);

(h)has accepted a police caution in the United Kingdom;

(i)has been bound over following a criminal conviction in the United Kingdom;

(j)has been subject to any investigation into the applicant's professional conduct by any licensing, regulatory or other body where the outcome was adverse;

(k)is currently subject to any investigation into the applicant's professional conduct by any licensing, regulatory or other body;

(l)is, to the applicant's knowledge, or has been, where the outcome was adverse, the subject of any investigation by the Agency in relation to fraud;

(m)is the subject of any investigation or proceedings by another Health Board or equivalent body which might result in the applicant being disqualified, conditionally disqualified, removed or suspended from a list, or equivalent list;

(n)is, or has been, where the outcome was adverse, the subject of any investigation into the applicant's professional conduct in respect of any previous or current employment;

(o)is, or has in the preceding 6 months been, or was at the time of the events that gave rise to conviction, proceedings or investigation, a director or one of the body of persons with control of a body corporate which–

(i)has been convicted of a criminal offence in the United Kingdom;

(ii)has been convicted elsewhere of an offence which would constitute a criminal offence if committed in Scotland;

(iii)is currently the subject of any proceedings which might lead to such a conviction;

(iv)has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body; or

(v)is, to the applicant's knowledge, or has been, where the outcome was adverse, the subject of any investigation by the Agency in relation to fraud;

(p)~~that the applicant consents to a request being made by the Health Board to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, into the applicant or a body corporate referred to in this paragraph and, for the purposes of this sub-paragraph, "employer" includes any partnership of which the applicant is or was a member.~~

3. An application shall include the following undertakings:–

(a)that the performer will participate in appropriate and relevant NHS appraisal procedures;

(b)that the performer will notify the Health Board in writing within 7 days of its occurrence if the performer–

(i)is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in Scotland, would constitute a criminal offence

(ii)is convicted of a criminal offence in the United Kingdom;

(iii)is convicted ~~in~~ elsewhere of an offence which would constitute a criminal offence if committed in Scotland;

(iv)has, in summary proceedings, in respect of an offence, been the subject of an order discharging the performer absolutely (without proceeding to conviction);

(v)has accepted and agreed to pay either a ~~procurator fiscal fine~~fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;

(vi)has accepted a police caution in the United Kingdom;

(vii)is bound over following a criminal conviction in the United Kingdom;

(viii)becomes the subject of any investigation into the performer's professional conduct by any licensing, regulatory or other body;

(ix)is informed by any licensing, regulatory or other body of the outcome of any investigation into the performer's professional conduct, and there is a finding against the performer;

(x)becomes, to the performer's knowledge, the subject of any investigation by the Agency in relation to fraud, or is informed of the outcome of any such investigation, where it is adverse;

(xi)becomes the subject of any investigation or proceedings by another Health Board or equivalent body, which might result in the performer being disqualified, conditionally disqualified, removed or suspended from a list, or equivalent list;

(xii)is disqualified, conditionally disqualified, removed or suspended from or refused admission to any list or equivalent list;

(xiii)is, was in the preceding 6 months, or was at the time of the events that gave rise to the charge, conviction or investigation, a director or one of the persons with control of a body corporate and that body corporate–

(aa)is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in Scotland, would constitute a criminal offence;

(bb)is convicted of a criminal offence in the United Kingdom;

(cc)is convicted elsewhere of an offence which, if committed in Scotland, would constitute a criminal offence;

(dd)becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body;

(ee)is informed by any licensing, regulatory or other body of the outcome of any investigation into its provision of professional services, and there is a finding against it; or

(ff)becomes, to the performer's knowledge, the subject of any investigation by the Agency in relation to fraud, or is informed of the outcome of any such investigation, if adverse,

together with details of the occurrence, including approximate dates, and where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome;

(c)if the performer is a provider of primary medical services–

(i)under a general medical services contract, to comply with the requirements of ~~paragraph 114 (gifts) of Schedule 5 (other contractual terms) to~~paragraph 117 (gifts) of schedule 6 of the General Medical Services Contracts Regulations;

(ii)under a section 17C agreement, to comply with requirements of ~~paragraph 78 (gifts) of Schedule 1 (content of agreements)~~paragraph 82 of schedule 1 to the Section 17C Agreements Regulations;

(d)if the performer is not a provider of primary medical services but performs primary medical services in accordance with a–

(i)general medical services contract, to comply with the requirements of ~~paragraph 114 of Schedule 5 to~~ paragraph 117 (gifts) of schedule 6 of the General Medical Services Contracts Regulations; or

(ii)section 17C arrangement, to comply with the requirements of ~~78 of Schedule 1~~paragraph 82 of schedule 1 to the Section 17C Agreements Regulations,

as though the performer were a provider of primary medical services;

(e)that the performer shall not prescribe drugs, medicines or appliances whose cost or quantity, in relation to any patient, is, by reason of the character of the drug, medicine or appliance in question in excess of that which is reasonably necessary for the proper treatment of that patient;

(f)~~where the performer is authorised to supply drugs, medicines or appliances, that the performer shall not supply any drugs, medicines or appliances to any person who makes a declaration on a prescription form claiming either charge exemption under regulation 7 of the 2001 Regulations or charge remission under the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(43) without evidence of the patient's entitlement to such exemption or remission having been requested, unless the claim is for an exemption under regulation 7(1)(a) to (f) of the 2001 Regulations and the performer has information at the time of supplying the item which confirms that the person is entitled to the exemption claimed;~~

(g)if the performer is a provider of primary medical services, that the performer shall claim for a payment under the arrangement, agreement or contract by which the performer provides primary medical services only in accordance with the terms of that arrangement, agreement or contract;

(h)if the performer is not a provider of primary medical services, that the performer shall–

(i)assist a provider of primary medical services in a claim for a payment under the arrangement, agreement or contract by which that provider provides primary medical services only where that claim is in accordance with the terms of that arrangement, agreement or contract; and

(ii)claim a payment from a provider of primary medical services only in accordance with the terms of the performers employment or engagement by that provider;

(i)if the performer is a GP Registrar, unless the performer has an acquired right under ~~regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(44)~~ article 6(6) of the Postgraduate Medical Education and Training Order of Council 2010 that the performer will–

(i)not perform primary medical services except when acting for, and under the supervision of, the performer's GP Trainer;

(ii)withdraw from the primary medical services performers list if any of the events in paragraph 4 takes place;

(iii)~~until the coming into force of article 10 of the 2003 Order apply for a certificate of prescribed experience under regulation 10 of the Vocational Training Regulations or a certificate of equivalent experience under regulation 11 of those regulations as soon as the performer is eligible to do so, and provide the Health Board with a copy of any such certificate; and~~

(iv)~~after the coming into force of article 10 of the 2003 Order,~~ provide the Health Board with evidence of the performer's inclusion in the GP Register;

(j)that the performer shall consent to a request being made by the Health Board to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, into the applicant or a body corporate referred to in this paragraph and, for the purposes of this sub-paragraph, "employer" includes any partnership of which the applicant is or was a member;

(k)that the performer shall consent to disclosure of information in terms of regulation 14;

(l)that the performer will remain a scheme member.

4. ~~The events to which this paragraph applies are–~~

~~(a)the conclusion of any period of training prescribed by regulation 6(3) of the Vocational Training Regulations or after the coming into force of articles 4 and 5 of the 2003 Order, any period of general practice training required pursuant to those articles, unless–~~

~~(i)it forms part of a vocational training scheme which has not yet been concluded;~~

~~(ii)the GP Registrar provides the Health Board with–~~

~~(aa)a certificate of prescribed experience under regulation 10 of the Vocational Training Regulations;~~

~~(bb)a certificate of equivalent experience under regulation 11 of those Regulations; or~~

~~(cc)after the coming into force of article 10 of the 2003 Order, evidence of the applicants inclusion in the GP Register;~~

~~(iii)the failure satisfactorily to complete any period of training within the meaning of regulation 9 of the Vocational Training Regulations or after the coming into force of articles 4 and 5 of the 2003 Order, of general practice training within the meaning of those articles; and~~

~~(iv)the completion of a vocational training scheme, unless the GP Registrar provides the Health Board with–~~

~~(aa)a certificate of prescribed experience under regulation 10 of the Vocational Training Regulations;~~

~~(bb)a certificate of equivalent experience under regulation 11 of those regulations; or~~

~~(cc)after the coming into force of article 10 of the 2003 Order, evidence of the GP Registrar's inclusion in the GP Register.~~ The events to which this paragraph applies are—

(a)the conclusion of any period of general practice training required by section ~~34J~~ 34H of the Medical Act 1983 unless—

(i)it forms part of a vocational training scheme which has not yet been concluded; or

(ii)the GP Registrar provides the Health Board with evidence of their inclusion in the GP Register;

(b)the failure satisfactorily to complete any period of general practice training established under within the meaning of that section of that Act; and

(c)the completion of a vocational training scheme unless the GP Registrar provides the Health Board with evidence of their inclusion in the GP Register.

5. An application shall include—

(a)a disclosure request for any disclosure record required under regulation 6(3)(d); and

(b)where required by the Health Board under that regulation, any existing disclosure record the applicant holds.

Regulation 16

SCHEDULE 2

REVOCATIONS

(1) Regulations revoked	*(2) References*	*(3) Extent of Revocation*
The National Health Service (General Medical Services) (Scotland) Regulations 1995	S.I. 1995/416	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1995	S.I. 1995/3199	The whole Regulations

(1) Regulations revoked	*(2) References*	*(3) Extent of Revocation*
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1996	S.I. 1996/842	The whole Regulations
The National Health Service (General Medical Services, Pharmaceutical Services and Charges for Drugs and appliances) (Scotland) Amendment Regulations 1996	S.I. 1996/1504	Regulation 2
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1997	S.I. 1997/943	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 2) Regulations 1997	S.I. 1997/1473	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1998	S.I. 1998/4	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 2) Regulations 1998	S.I. 1998/660	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 3) Regulations 1998	S.I. 1998/1600	The whole Regulations
The Medical Act 1983 (Approved Medical Practices and Conditions of Residence) and National Health Service (General Medical Services) (Scotland) Amendment Regulations 1998	S.I. 1998/1667	Regulation 4
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 1999	S.I. 1999/749	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 2) Regulations 1999	S.I. 1999/1057	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 3) Regulations 1999	S.I. 1999/1620	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 4) Regulations 1999	S.S.I. 1999/54	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 2000	S.S.I. 2000/28	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 2) Regulations 2000	S.S.I. 2000/190	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 2001	S.S.I. 2001/119	The whole Regulations
The National Health Service (General Medical Services and Pharmaceutical Services) (Scotland) Amendment Regulations 2002	S.S.I. 2002/111	Regulation 3
The National Health Service (General Medical Services and Pharmaceutical Services) (Scotland) Amendment (No. 2) Regulations 2002	S.S.I. 2002/153	Regulation 2(3)
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 2002	S.S.I. 2002/438	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 2003	S.S.I. 2003/11	The whole Regulations

(1) Regulations revoked	*(2) References*	*(3) Extent of Revocation*
The National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003	S.S.I. 2003/64	The whole Regulations
The National Health Service (General Medical Services Supplementary Lists) (Scotland) Amendment Regulations 2003	S.S.I. 2003/298	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 2) Regulations 2003	S.S.I. 2003/310	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment (No. 3) Regulations 2003	S.S.I. 2003/443	The whole Regulations
The National Health Service (General Medical Services Supplementary Lists) (Scotland) Amendment Regulations 2004	S.S.I. 2004/40	The whole Regulations
The National Health Service (General Medical Services) (Scotland) Amendment Regulations 2004	S.S.I. 2004/41	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for lists ("primary medical services performers lists) of general medical practitioners performing primary medical services for which Health Boards are, under section 2C(1) of the National Health Service (Scotland) Act 1978 ("the 1978 Act"), under a duty to provide or secure the provision of, to be kept by those Health Boards.

Regulation 3 provides that medical practitioners, subject to transitional provisions and exceptions for those who are provisionally registered or are GP Registrars, may not perform primary medical services for which a Health Board is under a duty to provide or secure the provision of unless they are included in a list maintained by the Health Board.

Regulations 4 and 5 provide for the preparation, maintenance and publication of lists by Health Boards.

Regulation 6 makes provision in relation to the applications for inclusion on primary medical services performers lists and Schedule 1 sets out the information, declarations and undertakings to be supplied on application.

Regulation 7 makes provision for the grounds on which an application must be refused or deferred.

Regulation 8 and paragraph 3 of Schedule 1 set out the requirements with which a performer included in a list must comply.

Regulations 9 and 10 make provision for removals of performers from the primary medical services performers list, including the grounds for removal, and regulation 11 makes provision to permit Health Boards to re include in a list persons removed on the grounds of a criminal conviction where there the person has successfully appealed against conviction, or in certain circumstances, sentence.

Regulation 12 sets out the circumstances in which a performer included in a primary medical services performers list may not withdraw from it.

Regulation 13 makes provision for appeals to the Scottish Ministers against decisions of Health Boards to refuse to include a person in a primary medical services performers list, or to remove them from the list on the ground that the person has not performed primary medical services in the last 12 months.

Regulation 14 makes provision for the disclosure of information by Health Boards about applicants for inclusion on primary medical services performers lists, refusals of applications, removals and references to the NHS Tribunal.

Regulation 15 provides for the making of payments by Health Boards to general medical practitioners who have been suspended by the NHS Tribunal under section 32A (applications for interim suspension) or section 32B (continuation of suspension pending appeal) or under corresponding provisions in force in England, Wales or Northern Ireland in consequence of that suspension.

Regulation 16 and Schedule 2 revoke, subject to any ancillary provisions made in an order under section 7 of the Primary Medical Services (Scotland) Act 2004, the National Health Service (General Medical Services) (Scotland) Regulations 1995 and the National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003 and amendments to those Regulations, which provided for medical lists and supplementary lists of medical practitioners respectively.

(**1**)

1978 c. 29. Section 17P was inserted by the Primary Medical Services (Scotland) Act 2004 asp 1 ("the 2004 Act"), section 5(2); section 32E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 8; section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and by the Health Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) defines "prescribed" and "regulations." 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. 2001/430, as amended by S.S.I. 2002/100 and 2003/130 and 295.

(**3**)

S.I. 2002/3135.

(**4**)

S.I. 2003/1250.

(**5**)

2004 asp 1.

(**6**)

1983 c. 54. Section 11(4) was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 35(4) and Schedule 2, Part 1, paragraph 61.

(**7**)

Section 9 was amended by the Health Service and Community Care Act 1990 (c. 19), section 29(5) and the Health Act 1999 (c. 8), Schedule 4, paragraph 43.

(**8**)

1983 c. 54. Section 1(3) was amended by the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 2 and S.I. 2000/1803.

(**9**)

Section 29C(1) was inserted by the Health Act 1999 (c. 8), section 58.

(**10**)

O.J. No. L 1, 3.1.94, p.1.

(**11**)

O.J. No. L 1, 3.1.94, p.571.

(**12**)

Section 29 was substituted by the Health Act 1999 (c. 8), section 58(1) and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), schedule 2, paragraph 2(4) and the Primary Medical Services (Scotland) Act 2004 (asp 1), section 5(3).

(**13**)

1983 c. 54. Paragraph 19E is inserted by article 5(3) of the 2002 Order, with effect from such date as the Secretary of State may specify.

(**14**)

S.I. 1974/467. Relevant amending instruments are S.I. 1991/900, 2000/224and S.S.I. 2003/306.

(**15**)

1977 c. 49.

(**16**)

S.I. 1978/1907

(**17**)

S.S.I. 2004/115.

(**18**)

Section 35E is inserted by article 13 of the 2002 Order, with effect from such date as the Secretary of State may specify.

(**19**)

1983 c. 54. Section 15 was amended by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), Schedule 2, Part 1, paragraph 61(4); section 15A was inserted by S.I. 2000/3041. Section 21 was amended by the 1997 Act, Schedule 2, Part 1, paragraph 61(5) and by S.I. 1996/1591 and 2002/3135.

(**20**)

Section 22 was amended by S.I. 1996/1951 and 2002/3135.

(**21**)

Section 29B was inserted by the Health Act 1999 (c. 8), section 58 (1) and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), schedule 2, paragraph 2(6) and the Primary Medical Services (Scotland) Act 2004 (asp 1), schedule, paragraph 1(13).

(**22**)

1968 c. 67.

(**23**)

Section 69 was amended by the Statute Law (Repeals) Act 1993 (c. 50) and the Pharmacists (Fitness to Practise) Act 1997 (c. 19), Schedule, paragraph 5.

(**24**)

Section 27 was amended by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, the Medicinal Products: Prescription by Nurses etc Act 1992 (c. 28) section 3, the National Health Service (Primary Care) Act 1997 (c. 46) Schedule 2, paragraph 44, the Health and Social Care Act 2001 (c. 15) section 44 , the Health Services Act 1980 (c.53), section 20(2) and SI 2003/1590.

(**25**)

Section 2C was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1) ("the 2004 Act"), section 1; section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46) and amended by the 2004 Act, section 2(2); section 17J was inserted by the 2004 Act, section 4.

(**26**)

1983 c. 54. Section 2 was amended by S.I. 1996/1591.

(**27**)

S.S.I. 2004/116.

(**28**)

Section 32A(2) was inserted by the National Health Service (Amendment) Act 1995 (c. 31) ("the 1995 Act"), section 8 and amended by the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 51; Section 32B(1) was inserted by the 1995 Act, section 8 and substituted by the 1999 Act, Schedule 4, paragraph 52(a).

(**29**)

S.I. 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23.

(**30**)

1978 c. 29. Section 2C was inserted by the Primary Medical Services (Scotland) Act (asp 1), section 1(2).

(**31**)

Section 36 was amended by the Medical (Professional Performance) Act 1995 (c. 51) ("the 1995 Act"), Schedule, paragraph 5 and by S.I. 2000/1803.

(**32**)

Section 38 (1) was amended by the 1995 Act, Schedule, paragraph 7(2)(a)-(c).

(**33**)

Sections 35D and 38 are inserted by article 13 of the 2002 Order, with effect from such date as the Secretary of State may specify.

(**34**)

Schedule 4 is substituted by article 14 of the 2002 Order, with effect from such date as the Secretary of State may specify.

(**35**)

Section 29B(2) was inserted by the Health Act 1999 (c. 8) ("the 1999 Act") and amended by the Community Care and Health (Scotland) Act 2002 (asp 5) ("the 2002 Act"), schedule 2, paragraph 2(6) and the Primary Medical Services (Scotland) Act 2004 (asp 1), schedule, paragraph 1(13); section 30 was substituted by the 1999 Act, section 58(2), and amended by the 2002 Act, schedule 2, paragraph 2(7); section 31 was renumbered section 31(1) by the 1999 Act, Schedule 4, paragraph 49 and amended by the 2002 Act, schedule 2, paragraph 2(8).

(**36**)

Section 32A was amended by the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 51 and the Community Care and Health (Scotland) Act 2002 (asp 5) ("the 2002 Act"), schedule 2, paragraph 2(9); section 32B was amended by the 1999 Act, Schedule 4, paragraph 52 and the 2002 Act, schedule 2, paragraph 2(10); section 32D was amended by the 1999 Act, Schedule 4, paragraph 53 and the 2002 Act, schedule 2, paragraph 2(11).

(**37**)

S.S.I. 2004/38.

(**38**)

1978 c. 29. Section 2C was inserted by the Primary Medical Services (Scotland) Act (asp 1), section 1(2).

(**39**)

1983 c. 54. Section 37 was amended by the Medical (Professional Performance) Act 1995 (c. 51) ("the 1995 Act"), Schedule, paragraph 6 and by S.I. 2000/1803; section 41A was inserted by S.I. 2000/1803.

(**40**)

Section 41A is substituted by article 13 of the 2002 Order, with effect from such date as the Secretary of State may specify.

(**41**)

1995 c. 46.

(**42**)

1992 c. 5; section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c. 47).

(**43**)

S S.I. 2003/460.

(**44**)

S.I. 1994/3130. The relevant amending instrument is S.I. 1998/669.