POLICY NOTE

THE CORONAVIRUS ACT 2020 (TRANSITIONAL PROVISION) (SCOTLAND) REGULATIONS 2022

SSI 2022/82

The above instrument is made in exercise of the powers conferred on the Scottish Minsters by section 89(7) of the Coronavirus Act 2020, and all other powers enabling them to do so. The instrument is not subject to any Parliamentary procedure.

Purpose of the instrument
The purpose of the instrument is to amend the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 to make transitional provision in connection with the expiry of certain specific provisions in the Coronavirus Act 2020 ("the Act") on 24 March 2022.

Policy Objectives

The majority of the provisions of the Act came into force on 25 March 2020. The purpose of the Act was to enable the response to, and manage the effects of, the COVID-19 pandemic. (References in this Policy Note to COVID-19 are to be read as references to COVID-19 and coronavirus (which means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).) The Act contains temporary measures to either amend existing legislation or to introduce new powers and provisions designed to mitigate the impacts of COVID-19. As the Act was intended to respond to the COVID-19 pandemic, it is time limited. The majority of the Act's provisions are subject to a two year sunset provision from when the Act was passed, by virtue of section 89(1) of the Act, which means they expire on 24 March 2022. The Scottish Government consulted on and has proposed extension of some provisions, unrelated to this instrument, via the Coronavirus Act 2020 (Alteration of Expiry Date) (Scotland) Regulations 2022.

Section 4 and schedule 3 of the Act made amendments to the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 allowing general medical practitioners to begin working while their applications to join a Health Board's Performers Lists were still pending. This was an emergency measure which will not be required as the COVID-19 pandemic recedes. However transitional arrangements are needed to ensure that Health Boards progress the applications of any general medical practitioners who are currently working on the basis that their application to join Performers Lists remain pending. Following the expiry of section 4 and schedule 3 of the Act, general medical practitioners will either have to be accepted in full onto a Performers List or cease working in general practice in the NHS.

Legislative background

Section 89(7) of the Act enables the Scottish Ministers to make regulations making transitional provision in connection with the expiry of any provision of the Act in relation to Scotland.

The ordinary operation of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004 requires that a general medical practitioner is accepted onto a Health Board's Performers List before they may perform any primary medical services in the Health Board's area (see regulation 3). Section 4 and schedule 3 of the Act permitted general medical practitioners to perform primary medical services providing that their application for acceptance to the Health Board's Performers List remained pending. This was done to allow general medical practitioners who were returning to the profession urgently as part of measures to increase the availability of the healthcare professional during the COVID-19 pandemic to be able to work in primary medical services.

By virtue of section 89(1) of the Act, section 4 and schedule 3 of the Act will expire on 24 March 2022. From that date a pending application will no longer be sufficient to permit a general medical practitioner to perform primary medical services. Transitional provision is therefore needed to set out the process by which Health Boards will consider and decide any outstanding applications which remain pending.

Legislative procedure

This instrument is not subject to Parliamentary procedure.

Consultation

Health Boards each operate their own Performers Lists. Scottish Government has consulted stakeholders who are responsible for maintaining the lists about how to prepare for the expiry of the Act and this has informed Scottish Government's approach to the transitional provision.

Impact Assessments

Applicants to Performers Lists during the pandemic would expect their application to be completed at some future stage. There should be no particular impact to Health Boards resuming the process.

Financial Effects

This should have no financial effect.

Scottish Government
Primary Care Directorate

March 2022