SCOTTISH STATUTORY INSTRUMENTS

2005 No. 334

NATIONAL HEALTH SERVICE

The National Health Service (Service Committees and Tribunal) (Scotland) Amendment (No. 2) Regulations 2005

Made - - - -	*8th June 2005*
Laid before the Scottish Parliament	*9th June 2005*
Coming into force - -	*1st July 2005*

The Scottish Ministers, in exercise of the powers conferred by sections 17P, 25(2), 26(2), 27(2), 105(7), sections 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(**a**) and of all other powers enabling them in that behalf, and after consultation with the Council on Tribunals and its Scottish Committee in accordance with section 8(1) and (3) of the Tribunal and Inquiries Act 1992(**b**), hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Service Committees and Tribunal) (Scotland) Amendment (No. 2) Regulations 2005 and shall come into force on 1st July 2005.

(2) In these Regulations "the principal Regulations" means the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**c**).

Amendment of the principal Regulations

2.—(1) In regulation 1(2) of the principal Regulations (citation, commencement and interpretation)(**d**) for the definition of "optician", substitute–

""optician" means an ophthalmic optician;".

(**a**) 1978 c.29; section 17P was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1), section 5(2) and is extended by the Health and Medicines Act 1988 (c.49) ("the 1988 Act"), section 17 by virtue of S.S.I. 2004/167; section 25(2) was amended by the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), section 40(2) and Schedule 9, paragraph 19, the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraph 43 and Schedule 3, and the Health Act 1999 (c.8) ("the 1999 Act"), section 56 and was extended by the 1988 Act, section 17; section 26(2) was amended by the Health and Social Security Act 1984 (c.48), Schedule 1, paragraphs 2, 3 and 4 and Schedule 8, the 1999 Act, section 56 and extended by the 1988 Act, section 17; section 27(2) was substituted by the National Health Service (Amendment) Act 1986 (c.66), section 3, and amended by the 1990 Act, Schedule 9, paragraph 19 and extended by the 1988 Act, section 17; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24 and the 1999 Act, Schedule 4, paragraph 60; 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).

(**b**) 1992 c.53; section 8(3) was amended by S.I. 2001/3649, article 335(3).

(**c**) S.I. 1992/434. Relevant amending instruments are S.I. 1994/3038, S.I. 1996/938, 1998/1424 and S.S.I. 1999/53 and 2005/118.

(**d**) Regulation 1(2) was amended by S.I. 1996/938 and 1998/1424 and S.S.I. 1999/53 and 2005/118.

(2) In regulation 3(4) of the principal Regulations (provisions relating to the start of disciplinary proceedings)(**a**) for paragraph (a) substitute–

"(a) the complainant, the person who is the subject of the complaint and the Health Board have been notified in writing of the results of the conciliation process by the conciliator appointed in accordance with directions given under section 2(5) of the Act; or".

ANDREW P KERR
A member of the Scottish Executive

St Andrew's House,
Edinburgh
8th June 2005

(**a**) Current regulation 3(4) was inserted by S.I. 1996/938 and amended by SS.I. 1999/53.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992 ("the principal Regulations") which make provision as to the investigation of matters relating to services provided by doctors, dentists, pharmacists, ophthalmic medical practitioners and opticians under arrangements with Health Boards.

Regulation 2(1) amends the definition of "optician" in regulation 1 of the principal Regulations (citation, commencement and interpretation) to mean an ophthalmic optician, as defined in section 108 of the National Health Service (Scotland) Act 1978 ("the Act").

Regulation 2(2) amends regulation 3(4) of the principal Regulations (provisions relating to the start of disciplinary proceedings), which makes provision about the manner in which an allegation ceases to be the subject of a complaint being investigated. Regulation 2(2) replaces regulation 3(4)(a) and provides that an allegation remains the subject of a complaint being investigated until the conclusion of the conciliation process. Arrangements for the conciliation process are provided by the Directions to Health Boards and the Agency on Complaints Procedure, made on 31 March 2005, given under section 2(5) of the Act.

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