



SCOTTISH EXECUTIVE

Health Department
Directorate of Service Policy and Planning

Primary Care Division
St Andrew's House
Regent Road
EDINBURGH
EH1 3DG

Dear Colleague

[THE NATIONAL HEALTH SERVICE \(TRIBUNAL\) \(SCOTLAND\) AMENDMENT \(No2\) REGULATIONS 2004](#)

Summary

1. This letter advises NHS Boards and the Common Services Agency of a further amendment of the Regulations which set out the procedures for inquiries by the NHS Tribunal.

Background

2. The [National Health Service \(Tribunal\) \(Scotland\) Regulations 2004](#) (the principal regulations) came into force on 4 March. They extended the Tribunal's role to deal with fraud or attempted fraud by primary care practitioners and [Circular 2004 PCA\(D\) etc](#) dated 5 February refers. They were amended to take account of the new GMS contract which came into effect on 1 April and [Circular PCA\(M\)\(2004\)](#) dated 25 March 2004 refers.

3. The power for the Scottish Ministers to direct a recovery of an amount from a practitioner who is the subject of an adverse finding by the Tribunal stems from section 17 of the Medicines Act 1988; regulation 29 of the principal regulations applies. In 1996 the power to direct recoveries in Tribunal cases was dispensed with although it continued for cases heard by the discipline committees of the NHS Boards. The reinstatement of recoveries in Tribunal cases is particularly appropriate for the fraud regime but the required amendments to primary legislation to apply them to medical practitioners on the new performers lists could not be put in place on 1 April 2004 via the [Primary Medical Services \(Scotland\) Act 2004](#) itself. They have however been put in place by the [Primary Medical Services](#)

8 July 2004

Addresses

For action

Chief Executives of NHS Boards

For information

Director of Practitioner Services
Division
Common Services Agency
General Medical Practitioners

Enquiries to:

John W Davidson
General Medical Services
1st Floor East Rear
St Andrew's House
EDINBURGH
EH1 3DG

Tel: 0131-244 2331

Fax: 0131-244 2621

email:

john.davidson@scotland.gsi.gov.uk

<http://www.scotland.gov.uk>



[\(Scotland\) Act 2004 \(Modification of Enactments\) Order 2004](#) and this enables the above amendment regulations to be made. The regulations also correct an error in the principal regulations.

Action

4. Copies of the amendment regulations will be sent to NHS Boards as soon as they are available along with copies of the revised guidance. Boards are asked to make the regulations available for inspection by any practitioner who may require to see them and to bring this circular to the attention of the GP Sub-committee.

Yours sincerely

DR HAMISH WILSON
Head of Primary Care Division