WELSH STATUTORY INSTRUMENTS

2010 No. 729 (W.70)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Primary Medical Services) (Miscellaneous Amendments) (Wales) Regulations 2010

Made - - - -	*10 March 2010*
Laid before the National Assembly for Wales - -	*11 March 2010*
Coming into force - -	*1 April 2010*

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 44(1), 47, 49 and 203(9) and (10) of the National Health Service (Wales) Act 2006(**1**).

PART 1

GENERAL

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the National Health Service (Primary Medical Services) (Miscellaneous Amendments) (Wales) Regulations 2010 and they come into force on 1 April 2010.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations "GMS Contracts Regulations" ("*Rheoliadau Contractau GMS*") means the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(**2**).

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

Amendment of regulation 2

2. In regulation 2(1) (interpretation) of the GMS Contracts Regulations—

(a) for the definition of "the 2003 Order" substitute—

(**1**) 2006 c. 42.
(**2**) S.I. 2004/478 (W.48).

""the 2010 Order" means the Postgraduate Medical Education and Training Order of Council 2010(**3**);";

(b) omit the definitions of "FHSAA" and "medical officer"; and

(c) in the definition of "national disqualification", in sub-paragraph (c), for "is treated as a national disqualification by the FHSAA" substitute "was treated as a national disqualification by the Family Health Services Appeal Authority(**4**)".

Amendment of regulation 4

3.—(1) Regulation 4 (conditions: general) of the GMS Contracts Regulations is amended as follows.

(2) For paragraph (4), substitute—

"(4) In paragraphs (1), (2)(a) and (3)(a), "general medical practitioner" does not include a medical practitioner whose name is included in the General Practitioner Register by virtue of—

(a) article 4(3) of the 2010 Order (general practitioners eligible for entry in the General Practitioner Register) because of an exemption under regulation 5(1)(d) of one or more of the sets of Regulations specified in paragraph (5);

(b) article 6(2) of the 2010 Order (persons with acquired rights) by virtue of being a restricted services principal (within the meaning of one or more of the sets of Regulations specified in paragraph (6)) included in a list specified in that article; or

(c) article 6(6) of the 2010 Order.".

(3) In paragraph (5), for "paragraph (4)(a)(iii) and (b)(i)(bb)" substitute "paragraph (4)(a)".

(4) For paragraph (6), substitute—

"(6) The Regulations referred to in paragraph (4)(b) are the National Health Service (General Medical Services) Regulations 1992, the National Health Service (General Medical Services) (Scotland) Regulations 1995 and the General Medical Services Regulations (Northern Ireland) 1997.".

Amendment of regulation 5

4. In regulation 5 (general condition relating to all contracts) of the GMS Contracts Regulations, in paragraph (2)(j)(ii), after "(powers of the Court of Session to deal with management of charities)", insert "or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005(**5**) (powers of Court of Session)".

Amendment of regulation 21

5. In regulation 21 (certificates) of the GMS Contracts Regulations, for paragraph (2), substitute —

"(2) The exception in paragraph (1)(a) does not apply where the certificate is issued in accordance with regulation 2(1) of the Social Security (Medical Evidence) Regulations 1976(**6**) (evidence of incapacity for work, limited capability for work and confinement) or

(**3**) S.I. 2010/473.
(**4**) The Family Health Services Appeal Authority was constituted under section 49S of the National Health Service Act 1977 (c. 49) and was abolished on 18 January 2010 by article 3 of the Transfer of Tribunal Functions Order 2010 (S.I. 2010/22).
(**5**) 2005 asp 10.
(**6**) S.I. 1976/615. Regulation 2(1) is substituted by S.I. 2010/137.

regulation 2(1) of the Statutory Sick Pay (Medical Evidence) Regulations 1985(**7**) (medical information).".

Amendment of Schedule 6

6.—(1) Schedule 6 (other contractual terms) of the GMS Contracts Regulations is amended as follows.

(2) After paragraph 1A (telephone services), insert—

"**Cost of relevant calls**

1B.—(1) The contractor must not enter into, renew or extend a contract or other arrangement for telephone services unless it is satisfied that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number.

(2) Where a contractor is party to an existing contract or other arrangement for telephone services under which persons making relevant calls to the practice call a number which is not a geographical number, the contractor must comply with sub-paragraph (3).

(3) The contractor must—

(a) before 1 April 2011, review the arrangement and consider whether, having regard to the arrangement as a whole, persons pay more to make relevant calls than they would to make equivalent calls to a geographical number; and

(b) if the contractor so considers, take all reasonable steps, including in particular considering the matters specified in sub-paragraph (4), to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls than they would to make equivalent calls to a geographical number.

(4) The matters referred to in sub-paragraph (3)(b) are—

(a) varying the terms of the contract or arrangement;

(b) renegotiating the terms of the contract or arrangement; and

(c) terminating the contract or arrangement.

(5) If, despite taking all reasonable steps referred to in sub-paragraph (3)(b), it has not been possible to ensure that, having regard to the arrangement as a whole, persons will not pay more to make relevant calls to the practice than they would to make equivalent calls to a geographical number, the contractor must consider introducing a system under which if a caller asks to be called back, the contractor will do so at the contractor's expense.

(6) In this paragraph—

(a) "existing contract or other arrangement" means a contract or arrangement that was entered into prior to 1 April 2010 and which remains in force on 1 April 2010;

(b) "geographical number" means a number which has a geographical area code as its prefix; and

(c) "relevant calls" means calls—

(i) made by patients to the practice for any reason related to services provided under the contract, and

(ii) made by persons, other than patients, to the practice in relation to services provided as part of the health service.".

(**7**) S.I. 1985/1604. Regulation 2(1) is substituted by S.I. 2010/137.