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WELSH STATUTORY INSTRUMENTS

2009 No. 1491 (W.144)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Pharmaceutical Services) (Amendment) (Wales) Regulations 2009

Made - - - -	*15 June 2009*
Laid before the National Assembly for Wales - -	*17 June 2009*
Coming into force - -	*17 July 2009*

The Welsh Ministers, in exercise of the powers conferred by sections 80, 83, 84, 86 and 203 (9) and (10) of the National Health Service (Wales) Act (**1**) hereby make the following Regulations:

Title, commencement and application and interpretation

1.—(1) The title of these Regulations is the National Health Service (Pharmaceutical Services) (Amendment) (Wales) Regulations 2009 and they come into force on 17 July 2009.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations "the principal Regulations" ("*y prif Reoliadau*") means the National Health Service (Pharmaceutical Services) Regulations 1992(**2**).

Amendment of regulation 2 of the principal Regulations

2.—(1) Regulation 2 of the principal Regulations (interpretation) is amended as follows.

(2) Omit the definitions of—

"personal medical services;"

"pilot scheme;"

"pilot scheme provider;".

(3) In the appropriate place in the alphabetical order, insert the following definitions—

""APMS" means primary medical services provided in accordance with an APMS contract;

(**1**) 2006 c. 42.
(**2**) S.I. 1992/662.

"APMS contract" means an arrangement to provide primary medical services made under section 41(2)(b) of the 2006 Act;

"APMS contractor" means a party to an APMS contract other than a Local Health Board;

"bank holiday" means any day that is specified or proclaimed as bank holiday in Wales pursuant to section 1 of the Banking and Financial Dealings Act 1971(**3**);

"director" means—

(a) a director of a body corporate; or

(b) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership);

"dispensing doctor" means a doctor who provides pharmaceutical services under arrangements with a Local Health Board under Part III;

"dispensing doctor list" is to be construed in accordance with regulation 21G;

"Health and Social Services Board" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972(**4**);

"Health Board" means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(**5**);

"LHBMS" means primary medical services provided by a Local Health Board under section 41(2)(a) of the 2006 Act;

"LHBMS practice" means a practice established by a Local Health Board to provide LHBMS;

"listed premises" means premises in relation to which premises approval has been granted and has effect from which a doctor is able to dispense, being premises specified in relation to the doctor in the dispensing doctors' list pursuant to regulation 21G(4);

"notice" means a notice in writing and "notify" is to be construed accordingly;

"outstanding application" except where the context otherwise requires has the meaning given to it in regulation 21A(5);

"patient list" means a list of patients kept by a Local Health Board—

(a) in respect of a GMS contractor, in accordance with paragraph 14 (list of patients) of Schedule 6 to the GMS Regulations; or

(b) in respect of an APMS contractor or an LHBMS practice, in accordance with directions given by the Welsh Ministers under section 12(3) of the 2006 Act in respect of an APMS contract or an LHBMS practice;

"practice amalgamation" has the meaning given to it in regulation 21E(1);

"practice premises", in relation to a provider of primary medical services, means the address specified in the contract (in the case of a GMS or APMS contractor) or practice statement (in the case of an LHBMS practice) as one at which services are to be provided under the contract or practice statement;

"premises approval" has the meaning given to it in regulation 21(1)(b) and includes temporary premises approval granted under regulation 21D(9) or 21E(4) and residual premises approval under regulation 21E(9);

"provider of primary medical services" means a GMS contractor, APMS contractor, or an LHBMS practice;

"provisional date" is to be interpreted in accordance with regulation 21A(6) to (8);

(**3**) 1971 c. 80.
(**4**) S.I. 1972/1265 (N.I. 14).
(**5**) 1978 c. 29.

"relevant APMS contractor", in relation to any doctor, means the APMS contractor, where the doctor is an APMS contractor, or where he or she is not, the APMS contractor by whom the doctor is employed or engaged;

"relevant GMS contractor", in relation to any doctor, means the GMS contractor, where the doctor is a GMS contractor or, where he or she is not, the GMS contractor by whom the doctor is employed or engaged;

"relevant LHBMS practice", in relation to any doctor, means the LHBMS practice within which the doctor provides primary medical services;

"relevant local authority", in relation to a Primary Care Trust, means a local authority whose area falls, wholly or partly, within the area of the Primary Care Trust;

"relevant local involvement network" means a person who in pursuance of arrangements made by a relevant local authority under section 221(1) of the Local Government and Public Involvement in Health Act 2007(**6**) is to carry on activities specified in section 221(2) of that Act;

"relevant patient list" means, in relation to a doctor who is (or is a legal and beneficial shareholder in a company which is) a GMS contractor or APMS contractor, the patient list for that contractor or, where the doctor is not a contractor, means the patient list for the GMS contractor or APMS contractor by whom the doctor is employed or engaged or for the LHBMS practice within which the doctor provides primary medical services;

"reserved location" has the meaning given to it in regulation 11ZA;

"superintendent" has the same meaning as in section 71 (bodies corporate) of the Medicines Act 1968(**7**).".

(4) For the definition of "prescriber" substitute—

""prescriber" means a doctor, dentist, pharmacist independent prescriber, independent nurse prescriber, nurse independent prescriber or a supplementary prescriber;".

(5) For the definition of "prescription form" substitute—

""prescription form" means a form provided by a Health Board, a Health and Social Services Board, a Local Health Board, a Primary Care Trust, an NHS Trust, or NHS Foundation Trust and issued by a prescriber to enable a person to obtain pharmaceutical services and does not include a repeatable prescription;".

(6) For the definition of "Remission of Charges Regulations" substitute—

""Remission of Charges Regulations" means the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(**8**);".

(7) For the definition of "repeatable prescriber" substitute—

""repeatable prescriber means a prescriber who is—

(a) a GMS contractor who provides repeatable prescribing services under the terms of its contract which gives effect to paragraph 40 of Schedule 6 to the GMS Regulations;

(b) an APMS contractor who provides repeatable prescribing services under the terms of its agreement which give effect to a provision in directions made by the Welsh Ministers under section 12(3) of the 2006 Act in relation to APMS contracts;

(c) employed or engaged by —

(i) a GMS contractor who provides repeatable prescribing services under the terms of a contract which gives effect to paragraph 40 of Schedule 6 to the GMS Regulations,

(**6**) 2007 c. 28.
(**7**) 1968 c. 67.
(**8**) S.I. 2007/1104 (W.116).

(ii) an APMS contractor who provides repeatable prescribing services under the terms of an agreement which gives effect to a provision in directions made by the Welsh Ministers under section 12(3) of the 2006 Act in relation to APMS contractors, or

(iii) a Local Health Board for the purposes of providing primary medical services within an LHBMS practice which provides repeatable prescribing services in accordance with a provision in directions made by the Welsh Ministers under section 12(3) of the 2006 Act in relation to LHBMS;".

Amendment of regulation 4 of the principal Regulations

3. In paragraph (8) of regulation 4 of the principal Regulations (pharmaceutical lists), for the expression "regulation 12(16)" substitute "regulation 12(18)".

Amendment of regulation 5 of the principal Regulations

4.—(1) Regulation 5 of the principal Regulations (notification of applications) is amended as follows—

(2) After paragraph (1)(e), insert the following—

"(f) any other patient, consumer or community groups in the area of the Local Health Board that the Local Health Board considers has an interest in the provision of pharmaceutical services in the area,".

(3) After paragraph (2)(c), insert the following—

"and

(d) any relevant local involvement network;

(e) any other patient, consumer of community groups in the area of the Local Health Board or the Primary Care Trust that that Local Health Board or Primary Care Trust considers has an interest in the provision of pharmaceutical services in the area,".

Amendment of regulation 6 of the principal Regulations

5. For paragraph (6) of regulation 6 of the principal Regulations (determination of applications), substitute the following paragraph—

"(6) No person—

(a) who provides or assists in providing pharmaceutical services under Part 7 of the 2006 Act;

(b) who is a GMS contractor, or is a legal and beneficial shareholder, director or company secretary of a company which is a GMS contractor, or is employed or engaged by a GMS contractor;

(c) who is an APMS contractor, or is an officer, trustee or other person concerned with the management of a company, society or voluntary organisation or other body which is an APMS contractor, or is employed or engaged by an APMS contractor;

(d) who is employed or engaged by a Local Heath Board for the purposes of providing primary medical services within an LHBMS practice,

may take part in any decision under this regulation.".

Amendment of regulation 7 of the principal Regulations

6.—(1) Regulation 7 of the principal Regulations (notification of decisions) is amended as follows.

(2) After paragraph (1)(a)(vi), insert the following—

"(vii) any other patient, consumer or community groups in the area of the Local Health Board that the Local Health Board considers has an interest in the provision of pharmaceutical services in the area; and".

(3) After paragraph (2)(c), insert the following—

"and

(d) any relevant local involvement network;

(e) any other patient, consumer of community groups in the area of the Local Health Board or the Primary Care Trust that that Local Health Board or Primary Care Trust considers has an interest in the provision of pharmaceutical services in the area,".

Amendment of regulation 9 of the principal Regulations

7.—(1) Regulation 9 of the principal Regulations (determination of controlled locality) is amended as follows.

(2) In paragraph (6) for the words "by any doctor, GMS contractor" substitute "by any provider of such services (except itself)".

(3) For paragraph (7) substitute the following paragraph—

"(7) Where the Local Health Board considers that the provision of primary medical services by any provider of such services (except itself) or pharmaceutical services by any chemist is likely to be adversely affected in consequence of a determination under paragraph (4), it may impose conditions to postpone, for such period as it thinks fit, the making or termination of arrangements under regulation 20 (or equivalent provision under the GMS Regulations) for the provision by a doctor or GMS contractor of pharmaceutical services or dispensing services to patients on the relevant patient list.".

(4) In paragraph (10)—

(i) in sub-paragraph (b) for "20(6)" substitute "20(7)",

(ii) after sub-paragraph (b), omit the word "or;", and

(iii) for sub-paragraph (c), substitute the following—

"(c) give notice to a GMS contractor pursuant to an equivalent provision to regulation 20(7); or

(d) determine an application under regulation 12,".

(5) In paragraph (13) for the words from "the Local Medical Committee" to the end, substitute "those persons that they may appeal to the Welsh Ministers in accordance with regulation 10.".

Amendment of regulation 10 of the principal Regulations

8.—(1) Regulation 10 of the principal Regulations (appeals relating to rurality of an area) is amended as follows.

(2) For the closing words of paragraph (1) substitute—

"the Local Medical Committee, Local Pharmaceutical Committee, a provider of primary medical services (except the Local Health Board) or a chemist who is required to be given notice by the Local Health Board under regulation 9(5) may appeal to the Welsh Ministers against any such