WELSH STATUTORY INSTRUMENTS

2006 No. 945 (W.94)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2006

Made - - - -	*28 March 2006*
Coming into force - -	*1 April 2006*

The National Assembly for Wales makes these Regulations, in exercise of the powers conferred by sections 28X and 126(4) of the National Health Service Act 1977(**1**):

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2006 which come into force on 1 April 2006.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations "the principal Regulations" means the National Health Service (Performers Lists) (Wales) Regulations 2004(**2**).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation and modification)—

(a) in the definition of "list", after "49N(1)(a) to (c), ", insert "a performers list, a dental list,";

(b) in the definition of "medical performers list", for "regulation 3(1)", substitute "regulation 3(1)(a)";

(c) in the definition of "a national disqualification" add, at the end of paragraph (a), "or under regulations corresponding to that section made under section 28X(4) (persons performing primary medical and dental services)";

(**1**) 1977 c. 49 ("the 1977 Act"); *see* section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations". Section 28X was inserted by the Health and Community Care (Community Health and Standards) Act 2003 (c. 43) ("the 2003 Act"), section 179(1). Section 126(4) was amended by the 1990 Act, s. 65(2); by the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 37(6) and by the Health and Social Care Act 2001 (c. 15) ("the 2001 Act"), Schedule 5, paragraph 5(13)(b). As regards Wales, the functions of the Secretary of State under sections 28X and 126(4) of the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; section 68 of the 2001 Act provides that Schedule 1 will be construed so as to include the amendments made by that Act.

(**2**) S.I. 2004/1020 (W.117).

(d) insert the following definitions at the appropriate alphabetical places—

""the Amendment Regulations" means the National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2006(**3**);";

""dental list" means the list prepared by a Local Health Board under regulation 4(1) of the Dental Regulations;";

""dental performers list" means the list prepared by a Local Health Board and published pursuant to regulation 3(1)(b);"; and

""the Dental Regulations" means the National Health Service (General Dental Services) Regulations 1992(**4**);".

Amendment of regulation 3 of the principal Regulations

3. For regulation 3(1) of the principal Regulations (performers lists) substitute—

"(1) A Local Health Board will prepare and publish, in accordance with this Part, as modified or supplemented by the relevant Part—

(a) a medical performers list; and

(b) a dental performers list.".

Amendment of regulation 6 of the principal Regulations

4. At the end of regulation 6 of the principal Regulations (decisions and grounds for refusal) add paragraph (7)—

"(7) When the Local Health Board notifies the performer under paragraph (6)(b), it will—

(a) notify the performer that if the performer wishes to exercise a right of appeal, the performer must do so within the period of 28 days beginning with the date on which it gave the performer the notice informing the performer of its decision; and

(b) tell the performer how to exercise any such right.".

Amendment of regulation 9 of the principal Regulations

5. At the end of regulation 9(5) of the principal Regulations (requirements with which a performer in a performers list must comply), add "to these Regulations or the Schedule to the Amendment Regulations".

Amendment of regulation 14 of the principal Regulations

6. In regulation 14 of the principal Regulations (reviews) after paragraph (7), insert paragraph (7A)—

"(7A) When the Local Health Board notifies the performer under paragraph (7)(c), it will—

(a) notify the performer that if the performer wishes to exercise a right of appeal, the performer must do so within the period of 28 days beginning with the date on which it gave the performer the notice informing the performer of its decision; and

(b) tell the performer how to exercise any such right.".

(**3**) S.I. 2006/945 (W.94).
(**4**) S.I. 1992/661.

Amendment of regulation 16 of the principal Regulations

7. At the end of regulation 16(1)(a) of the principal Regulations (notification), add ", 24(1) or 31(1);".

Insertion of regulation 18A of the principal Regulations

8. After regulation 18 of the principal Regulations, insert regulation 18A—

"**National disqualification**

18A.—(1) In this regulation and in regulation 19 "national disqualification" means the disqualification of the performer from inclusion in—

(a) a performer's list; and

(b) a list referred to in section 49N(1) prepared by a Local Health Board,

or only from inclusion in one or more descriptions of such list prepared by a Local Health Board or an equivalent list, the description being that specified by the FHSAA in its decision.

(2) If a performer appeals to the FHSAA under regulation 15 and the FHSAA decides—

(a) to remove the appellant from a performers list; or

(b) to refuse to admit the appellant to a performers list,

the FHSAA may also impose a national disqualification on that performer.

(3) A Local Health Board which has—

(a) removed a performer from its performers list; or

(b) refused to include the performer in its performers list,

may apply to the FHSAA for a national disqualification to be imposed on the performer.

(4) Any application under paragraph (3) must be made before the end of the period of three months beginning with—

(a) the date of the removal or the refusal; or

(b) 1 April 2006,

whichever is the later.

(5) If the FHSAA imposes a national disqualification on a person—

(a) no Local Health Board may include that person in any list from which the person has been so disqualified; and

(b) if that person is included in any such list, the Local Health Board will remove that person from that list forthwith.

(6) The FHSAA may, at the request of a person upon whom it has imposed a national disqualification, review that disqualification.

(7) On a review under paragraph (6), the FHSAA may confirm or revoke that disqualification.

(8) Subject to regulation 19, a request referred to in paragraph (6) may not be made before the end of the period of—

(a) two years beginning with the date on which the national disqualification was imposed; or

(b) one year beginning with the date of the FHSAA's decision on the last such review.".

Amendment of regulation 19

9. In regulation 19 of the principal Regulations (review periods on national disqualification)—

(a) for "section 49N(8)", in each of the two places where it occurs, substitute "regulation 18A(8)";

(b) in paragraph (1) for "section 49N(8)(a)" substitute "regulation 18A(8)(a)"; and

(c) in paragraph (2) for "section 49N(8)(b)" substitute "regulation 18A(8)(b)".

Amendment of regulation 22 of the principal Regulations

10. In regulation 22(4)(c) of the principal Regulations (medical performers list) delete "the medical practitioner's date of birth, where the medical practitioner consents, or it not,".

Insertion of Part 4 to the principal Regulations

11. After Part 3 of the principal Regulations insert Part 4—

"PART 4

DENTAL PERFORMERS LISTS

Interpretation

28.—(1) For the purposes of this Part, the prescribed description of performer is dentist and the relevant body is the General Dental Council.

(2) In this Part—

"the 2005 Order" means articles 18 to 24 of the Dentists Act 1984 (Amendment) Order 2005(**5**);

"approved trainer" means a dentist—

(a) whose name is included in a dental performers list; and

(b) who has been approved for a specified period, which has not elapsed, by a postgraduate dental dean or a director of postgraduate dental education as having the requisite skills and suitable practice facilities to enable him or her to act as a trainer;

"community dental service" means dental services provided under—

(a) sections 3(1)(c) and 5(1A);

(b) in Scotland, under sections 1 and 39(2) of the NHS (Scotland) Act 1978(**6**); and

(c) in Northern Ireland, under article 5(1)(c) and 9(1A) of the Health and Personal Social Services (Northern Ireland) Order 1972(**7**);

"contractor" means a dentist, who both provides and performs primary dental services in accordance with section 28C(**8**) arrangements or under a general dental services contract under section 28K(**9**);

"dentist" means a dental practitioner who is registered in the dentists register;

(**5**) S.I. 2005/2011.
(**6**) 1978 c. 29.
(**7**) S.I. 1972/1265 (N.I. 14).
(**8**) Section 28C was inserted by the National Health Service (Primary Care) Act 1997, s. 21(1).
(**9**) Section 28K was inserted by the 2003 Act, s. 172(1).

"Dentists Act" means the Dentists Act 1984(**10**);

"dentists register" means the register referred to in section 14(1) of the Dentists Act(**11**);

"health case" means a case falling within either section 28(1) (powers of the Health Committee) or, after the coming into force of the 2005 Order, section 27(2)(c) of the Dentists Act (allegations) (**12**);

"Health Committee" means the Health Committee of the General Dental Council, referred to in section 2 of the Dentists Act (committees of the Council)(**13**);

"personal dental services" means personal dental services provided pursuant to Part I of the Primary Care Act (pilot schemes for primary care);

"postgraduate dental dean or director of postgraduate dental education" means a dentist appointed to that position by the National Assembly for Wales and the University of Cardiff to assist in the provision of a suitable learning environment for dentists performing primary dental services to meet the requirements and standards of the General Dental Council, the University of Cardiff and the National Assembly for Wales;

"Practice Committee", after the coming into force of the 2005 Order, means the Professional Conduct Committee, the Health Committee or the Professional Performance Committee of the General Dental Council referred to in section 2 of the Dentists Act;

"Preliminary Proceedings Committee" means the Preliminary Proceedings Committee of the General Dental Council, referred to in section 2 of the Dentists Act;

"Professional Conduct Committee" means the Professional Conduct Committee of the General Dental Council, referred to in section 2 of the Dentists Act;

"professional registration number" means the number against the dentist's name in the dentists register;

"relevant scheme" means the scheme in respect of which the dentist is applying to be included in a dental performers list;

"scheme" means an arrangement to provide primary dental services—

(a) in accordance with section 28C; or

(b) under a general dental services contract; and

"vocational training" means a relevant period of employment during which a dentist is employed under a contract of service by an approved trainer to provide an appropriate range of dental care and treatment and to attend such study days as that contract provides, with the aims and objectives of enhancing clinical and administrative competence and promoting high standards through relevant postgraduate training and in particular to—

(a) enable the dentist to practise and improve his or her skills;

(b) introduce the dentist to dental practice in primary care;

(c) identify the dentist's personal strengths and weaknesses and balance them through a planned programme of training;

(d) promote oral health of, and quality dental care for, patients;

(**10**) 1984 c. 24.
(**11**) Section 14 is substituted by S.I. 2005/2001 from a date to be determined.
(**12**) Sections 27 and 28 are substituted by S.I. 2005/2001 from a date to be determined.
(**13**) Section 2 was amended by S.I. 2001/3926, art. 2 and 6(b) and by S.I. 2005/2011, article 4, from a date to be determined.