WELSH STATUTORY INSTRUMENTS

2006 No. 358 (W.46)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Primary Medical Services) (Miscellaneous Amendments) (Wales) Regulations 2006

Made - - - -	*14 February 2006*
Coming into force - -	*1 March 2006*

The National Assembly for Wales, in exercise of the powers conferred by sections 28R, 28S, 28V, 28W, 28X and 126(4) of the National Health Service Act 1977(**1**) and section 4(5) of the National Health Service and Community Care Act 1990(**2**) hereby makes the following Regulations:

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 2006 and they come into force on 1 March 2006.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

"GMS Contracts (Wales) Regulations" means the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(**3**); and

"Performers Lists (Wales) Regulations" means the National Health Service (Performers Lists) (Wales) Regulations 2004(**4**).

(**1**) 1977 c. 49; sections 28R, 28S, 28V and 28W were inserted by section 175(1) of the Health and Social Care (Community Health ands Standards) Act 2003 (c. 43) ("the 2003 Act"); section 28X was inserted by section 179(1) of the 2003 Act; section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 65(2), the Health Act 1999 (c. 8), Schedule 4, paragraph 37(6) and the Health and Social Care 2001 (c. 15), Schedule 5, paragraph 5(13)(b).
(**2**) 1990 c. 19.
(**3**) S.I. 2004/478 (W.48).
(**4**) S.I. 2004/1020 (W.117) as amended by S.I. 2005/258 (W.24).

PART 2

AMENDMENT OF THE GMS CONTRACTS (WALES) REGULATIONS

Amendment of regulation 2 of the GMS Contracts (Wales) Regulations

2.—(1) Regulation 2(1) (interpretation) of the GMS Contracts (Wales) Regulations is amended as provided in the following paragraphs.

(2) In the definition of "adjudicator" for "paragraph 101(5)" substitute "paragraph 99(5)".

(3) In the definition of "bank holiday", after "proclaimed as a bank holiday" insert "in England and Wales".

(4) In the definition of "general medical practitioner"—

(a) after "means" insert ", unless the context otherwise requires";

(b) in paragraph (a), omit "otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order";

(c) in paragraph (b)(i), after "Health and Personal Social Services (Northern Ireland) Order 1978", insert "or a person who has an acquired right to practise as a general medical practitioner pursuant to regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(**5**)"; and

(d) in paragraph (b)(ii), omit "other than by virtue of having an acquired right under paragraph (1)(d) of Schedule 6 to the 2003 Order".

(5) For the definition of "GP Registrar", substitute—

""GP Registrar" means a medical practitioner who is being trained in general practice by—

(a) until the coming into force for all purposes of article 4(5)(d) of the 2003 Order, a general medical practitioner who—

(i) has been approved for that purpose by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(**6**), and

(ii) performs primary medical services; and

(b) from the coming into force for all purposes of that article, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;".

(6) Omit the definition of "GP Trainer".

(7) In the definition of "immediate family member", after "spouse" insert "or civil partner".

(8) Omit the definition of "NCAA".

(9) After the definition of "normal hours" insert—

""NPSA" means the National Patient Safety Agency established as a Special Health Authority by the National Patient Safety Agency (Establishment and Constitution) Order 2001(**7**)

(10) In the definition of "out of hours services", in paragraph (a), after "if provided" insert "by a contractor to its registered patients".

(11) In the definition of "supplementary prescriber"—

(**5**) S.I. 1994/3130; regulation 5 was amended by S.I. 1997/2817 and modified by article 117 of S.I. 2004/865. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Schedule 10, Part 2.
(**6**) S.I. 1997/2817 as amended by S.I. 1998/669 and modified by article 118 of S.I. 2004/865.
(**7**) S.I. 2001/1743 as amended by S.I.2003/1077 and S.I.2005/504.

(a) In paragraph (b)(ii), omit "or";

(b) In paragraph (b)(iii), omit "and"; and

(c) After paragraph (b)(iii), insert-

"(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**8**) relating to-

(aa) chiropodists and podiatrists;

(bb) physiotherapists; or

(cc) radiographers:diagnostic or therapeutic, or

(v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989(**9**), and";

(d) In paragraph (c), after "an annotation" insert "or entry".

Amendment of regulation 4 of the GMS Contracts (Wales) Regulations

3. In regulation 4 (conditions relating solely to medical practitioners) of the GMS Contracts (Wales) Regulations, add—

"(4) In paragraph (1), (2)(a) and (3)(a), "general medical practitioner" does not include—

(a) from the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the General Practitioner Register by virtue of—

(i) paragraph 1(a) of Schedule 6 to that Order by virtue of the practitioner having been a restricted services principal included in a list specified in that paragraph,

(ii) paragraph 1(d) of that Schedule, or

(iii) article 11(2) of that Order because of an exemption under regulation 5(1)(d) of the regulations specified in paragraph (5);

(b) until the coming into force of article 10 of the 2003 Order, a medical practitioner who either—

(i) until the coming into force of paragraph 22 of Schedule 8 to that Order—

(aa) has an acquired right to practise as a general medical practitioner pursuant to regulation 5(1)(a) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(**10**) only by virtue of having been a restricted services principal included in a list specified in that paragraph, or regulation 5(1)(d) of those Regulations; or

(bb) is exempt from the need to be suitably experienced by virtue of regulation 5(1)(d) of the regulations specified in paragraph (5), or

(ii) upon the coming into force of that paragraph of that Schedule to that Order, is an eligible general practitioner pursuant to that paragraph by virtue of an acquired right under the provisions listed in sub-paragraph (a)(i) to (iii).

(5) The regulations referred to in paragraph (4)(a)(iii) and (b)(i)(bb) are the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(**11**),

(**8**) S.I. 2002/254 as amended by S.I.2004/2033.
(**9**) 1989 c. 44.
(**10**) S.I. 1994/3130 as amended by S.I. 1997/2817 and 2003/3148. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.
(**11**) S.I. 1997/2817 as amended by S.I. 1998/669 and 2003/3148 and modified by S.I. 2004/865, article 118. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(**12**) and the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(**13**).

(6) In paragraph (4), "restricted services principal" has the same meaning as in the 2003 Order(**14**).".

Amendment of regulation 5 of the GMS Contracts (Wales) Regulations

4.—(1) In regulation 5(2)(h) (general conditions relating to all contracts) of the GMS Contracts (Wales) Regulations for "the Criminal Procedure Act (Scotland) 1995" substitute "the Criminal Procedure (Scotland) Act 1995".

(2) In regulation 5(2)(j) of the GMS Contracts (Wales) Regulations insert at the beginning "within the period of five years prior to signing the contract or commencement of the contract, whichever is the earlier,".

Amendment of regulation 10 of the GMS Contracts (Wales) Regulations

5. In regulation 10(2) (health service body status) of the GMS Contracts (Wales) Regulations for "body that fact, it" substitute "body, that fact".

Amendment of regulation 17 of the GMS Contracts (Wales) Regulations

6. In regulation 17 (opt outs of additional and out of hours services) of the GMS Contracts (Wales) Regulations for "paragraph 4(8)" substitute "paragraph 4(9)".

Amendment of regulation 22 of the GMS Contracts (Wales) Regulations

7. In regulation 22 (finance), of the GMS Contracts (Wales) Regulations in paragraph (1), for "the Local Health Board to make payments to the contractor", substitute, "payments to be made".

Amendment of regulation 23 of the GMS Contracts (Wales) Regulations

8. In regulation 23 (finance) of the GMS Contracts (Wales) Regulations—

(i) for "Assembly's" substitute "(Assembly's";

(ii) delete "payments".

Amendment of regulation 24 of the GMS Contracts (Wales) Regulations

9. In regulation 24(4) (fees and charges) of the GMS Contracts (Wales) Regulations for "paragraph (e)" substitute "paragraph 1(e)".

Amendment of Schedule 2 to the GMS Contracts (Wales) Regulations

10.—(1) Schedule 2 (additional services) to the GMS Contracts (Wales) Regulations shall be amended as provided in the following paragraphs.

(2) In paragraph 2 (cervical screening), in sub-paragraph (2), for paragraph (a) substitute—

(**12**) S.I. 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23 and modified by S.S.1. 2004/163, article 101. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.
(**13**) S.R. 1998/13 as modified by S.R. 2004/156, Article 93. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.
(**14**) The definition of "restricted services principal" was substituted, for England, by S.I. 2004/865, for Scotland, by S.I. 2004/226, for Northern Ireland, by S.I 2004/3038 and for Wales, by S.I. 2004/1016.

"(a) the provision of any necessary information and advice to assist relevant patients in making an informed decision as to participation in the Cervical Screening Wales Programme of the Assembly undertaken by Velindre NHS Trust;"

(3) After sub-paragraph (2) of paragraph 2 insert—

"(2A) For the purposes of paragraph (2) "relevant patients" means female patients on the contractor's patient list who have been identified by Velindre NHS Trust as suitable candidates for a cervical screening test."

(4) In paragraph 4 (vaccinations and immunisations) of Schedule 2 to the GMS Contracts (Wales) Regulations, in paragraph (2)(a), for "influenza vaccination" substitute "influenza and pneumococcal vaccinations".

Amendment of Schedule 6 to the GMS Contracts (Wales) Regulations

11.—(1) Schedule 6 (other contractual terms) to the GMS Contracts (Wales) Regulations shall be amended as provided in the following paragraphs.

(2) After paragraph 1 (premises), insert—

"**Telephone services**

1A.—(1) From 1 April 2006 the contractor shall not be a party to any contract or other arrangements under which the number for telephone services to be used—

(a) by patients to contact the practice for any purpose related to the contract; or

(b) by any other person to contact the practice in relation to services provided as part of the health service,

starts with the digits 087, 090 or 091 or consists of a personal number, unless the service is provided free to the caller.

(2) In this paragraph, "personal number" means a telephone number which starts with the number 070 followed by a further 8 digits.".

(3) In paragraph 7 (clinical reports), at the end insert—

"(3) This paragraph does not apply in relation to out of hours services provided by a contractor on or after 1 March 2006.".

(4) In paragraph 11 (standards for out of hours services) after the word "must" insert the words "have regard to and omit "meet".

(5) After paragraph 11 (standards for out of hours services), insert—

"**Supply of medicines etc. by contractors providing out of hours services**

11A.—(1) In this paragraph—

"the Charges Regulations" means the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(**15**);

"complete course" means the course of treatment appropriate to the patient's condition, being the same as the amount that would have been prescribed if the patient had been seen during core hours;

"necessary drugs, medicines and appliances" means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the contractor, and in the light of the patient's medical condition, it would not be reasonable

(**15**) S.I.2001/1358 (W.86). Relevant amending instruments are S.I.2001/2539 (W.196), 2004/1018 (W.115), 2004/1605 (W.164), 2005/427 (W.44) and 2005/1915 (W.158)