WELSH STATUTORY INSTRUMENTS

2005 No. 258 (W.24)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2005

Made - - - -	*8 February 2005*
Coming into force - -	*28 February 2005*

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

Citation, commencement and application

1.—(1) These Regulations may be cited as the National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2005 and come into force on 28 February 2005.

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

(3) These Regulations apply in relation to Wales only.

Amendments to the principal Regulations

2. In regulation 2 of the principal Regulations (Interpretation and modification) insert the following definition after the definition of "Primary Care Act" —

> ""primary care organisation" means in respect of Wales a Local Health Board, in respect of England a Primary Care Trust, in respect of Scotland a Health Board and in respect of Northern Ireland a Health and Social Services Board or such successor bodies to those primary care organisations as may exist from time to time."

3. In paragraph (1) of regulation 3 of the principal Regulations (Performers Lists) replace the expression "Part 2" with the expression "Part 3".

(**1**) 1977 c. 49; *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), and by the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 38(2)(b), for the definitions of "prescribed" and "regulations". Section 28X was inserted by the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) ("2003 Act"), section 179(1). Section 126(4) was amended by the 1990 Act, section 65(2) and the 1999 Act , Schedule 4, paragraph 37(6). The functions of the Secretary of State under section 126(4) of the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 ("Transfer of Functions Order"), S.I.1999/672, article 2 and Schedule 1, as amended by the 1999 Act, section 66(5). Section 197 of the 2003 Act provides that in Schedule 1 of the Transfer of Functions Order any reference to an Act which is amended by the 2003 Act shall be treated as referring to that Act as amended by the 2003 Act.

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

4. After regulation 4 of the principal Regulations (application for inclusion in a performers list) insert the following—

"**Application for inclusion in a performers list by a performer already listed on a performers list of a primary care organisation**

4A.—(1) An application by a performer already included in a performers list held by a primary care organisation shall be made by sending the Local Health Board an application in writing, which shall include the information mentioned in paragraph (2), the undertakings required by paragraph (3), the certificate required by paragraph (4), the consent required by paragraph (5), any declaration required under paragraph (6) and any further information, undertakings, consents or documentation required under paragraph (7).

(2) The performer shall provide the information as required by paragraphs (2)(a), (b), (c), (d), (g), (h), (i) and (j) of regulation 4.

(3) The performer shall provide the undertakings as required by paragraphs (3)(a), (b), (c), (d) and (e) of regulation 4.

(4) The performer shall provide an enhanced criminal record certificate as required by paragraph (3)(f) of regulation 4, unless the performer has provided a certificate to the primary care organisation with which he or she is listed which is dated within the six months immediately preceding the date upon which the performer makes the application under this Regulation to the Local Health Board, in which case the performer shall submit a copy of such certificate certified as a copy of the original by the primary care organisation on whose list the performer is included.

(5) The performer shall provide

(a) the consent as required by paragraph (3)(g) of regulation 4; and

(b) consent to the release of information about the performer by the primary care organisation on whose list the performer is, corresponding to the information set out under paragraph (2)(e) of regulation 4 and clinical references taken by the Local Health Board corresponding to the requirements set out in paragraph (2)(f) of that Regulation.

(6) The performer shall send with the application a declaration as required by paragraph (4) and, where applicable, paragraph (5) of regulation 4 and any requisite details as set out in those paragraphs.

(7) The performer shall provide the authority required by paragraph (6) and such further information or documentation as may be required by the Local Health Board by paragraph (7) of regulation 4.

(8) A performer, who has applied in accordance with this Regulation to a Local Health Board for inclusion in its performers list, may perform primary services, despite not being included in that performers list, until the first of the following events arises —

(a) the Local Health Board notifies the performer of its decision on that application; or

(b) the end of a period of 2 months, starting with the date on which the Local Health Board receives the application under this Regulation from the performer.

(9) A performer may not withdraw an application made under this Regulation whilst a Local Health Board is deciding that application."

5. In paragraph (14) of regulation 10 of the principal Regulations (Removal from performers list) replace the expression "paragraph (6)" with the expression "paragraphs (3) or (6)".

6. In regulation 21 of the Principal Regulations (Interpretation) —