WELSH STATUTORY INSTRUMENTS

2004 No. 1017 (W.114)

NATIONAL HEALTH SERVICE, WALES

The Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Wales) Regulations 2004

Made - - - -	*31st March 2004*
Coming into force - -	*1st April 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 28V, 54(1)(c) 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 Primary Medical Services (Sale of Goodwill and Restrictions on Sub-contracting) (Wales) Regulations 2004 and shall come into force on 1st April 2004.

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

Interpretation

2.—(1) In these Regulations—

"the 1977 Act" means the National Health Service Act 1977;

"APMS contractor" means a person with whom a Local Health Board has made arrangements under section 16CC(2)(b) of the 1977 Act(**2**) (primary medical services) for the provision of primary medical services;

"core hours" means the period beginning at 8am and ending at 6.30pm on any day from Monday to Friday except Good Friday, Christmas Day or bank holidays;

(**1**) 1977 c. 49; Section 28V was inserted by section 175 of the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) ("the 2003 Act"). Section 54 was substituted by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), section 34(1), and was amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, Part 1, paragraph 29 and the 2003 Act, section 184 and Schedule 11, paragraphs 7 and 26. Section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19), section 65(2), the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 37(6) and the Health and Social Care Act 2001 (c. 15) ("the 2001 Act"), Schedule 5, paragraph 5(13)(b).

(**2**) Section 16CC was inserted into the National Health Service Act 1977 (c. 49) by section 174 of the 2003 Act.

"default contract" means a contract entered into pursuant to an Order made under section 176(3) of the Health and Social Care (Community Health and Standards) Act 2003(**3**) (general medical services: transitional);

"enhanced services", with regard to—

(a) a GMS contractor, has the meaning given in regulation 2(1) of the GMS Contracts Regulations (interpretation), or

(b) any other performer or provider of primary medical services, means services which, if performed or provided by a GMS contractor, would be enhanced services within the meaning given in regulation 2(1) of the GMS Contracts Regulations;

"essential services" means the services described in regulation 15(3), (5), (6) and (8) of the GMS Contracts Regulations (essential services) or services that are equivalent to those services;

"GMS contractor" means a person with whom a Local Health Board has entered into a general medical services contract or a default contract;

"GMS Contracts Regulations" means the National Health Services (General Medical Services Contracts) (Wales) Regulations 2004(**4**); and

"goodwill factor", with regard to a share in a company of a performer or provider of primary medical services, means the difference between the value of the share when the goodwill of his or her medical practice is taken into account and the value of the share when the goodwill of his or her medical practice is not taken into account.

(2) For the purposes of these Regulations, a contractor or performer has a registered patient list if there are patients—

(a) recorded by a Local Health Board as being on the contractor's or performer's list of patients or on the Local Health Board's list of patients in respect of the contractor or performer; and

(b) to whom the contractor or performer must provide essential services during core hours other than under an arrangement to provide enhanced services.

Prohibition on the sale of goodwill in certain primary medical services practices

3.—(1) The following performers or providers of primary medical services—

(a) a GMS contractor;

(b) an APMS contractor that has a registered patient list; and

(c) a medical practitioner who is a performer, with a registered patient list, of essential services during core hours, other than—

(i) solely under arrangements to provide enhanced services,

(ii) solely as a locum, or

(iii) only under arrangements to provide enhanced services and as a locum,

may not sell the goodwill of their medical practices in any circumstances (and no other person may sell that goodwill in their stead).

(2) A performer or provider of primary medical services who is a shareholder in a company—

(a) which is, or part of which is, all or part of his or her medical practice; and

(b) which is—

(i) a GMS contractor, or

(**3**) 2003 c. 43.
(**4**) S.I.2004/478(W.48).