WELSH STATUTORY INSTRUMENTS

2003 No. 993 (W.142)

NATIONAL HEALTH SERVICE, WALES

Commission For Health Improvement (Functions) (Wales) Regulations 2003

Made - - - -	*2nd April 2003*
Coming into force - -	*3rd April 2003*

The National Assembly for Wales, in exercise of the powers conferred on it by sections 17 and 126(4) of the National Health Service Act 1977(**1**) and sections 20(2) and 23 of the Health Act 1999(**2**), hereby makes the following Regulations:

PART I

GENERAL

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Commission for Health Improvement (Functions) (Wales) Regulations 2003 and shall come into force on 3rd April 2003.

(2) These Regulations apply to Wales only.

(3) In these Regulations —

"the Act" ("*y Ddeddf*") means the Health Act 1999;

"the 1977 Act" ("*Ddeddf 1977*") means the National Health Service Act 1977;

"the 1997 Act" ("*Ddeddf 1997*") means the National Health Service (Primary Care) Act 1997(**3**);

(**1**) 1977 c. 49; section 17 was substituted by section 12 of the Health Act 1999 (c. 8) ("the 1999 Act"); section 126(4) applies in relation to any power to make orders or regulations conferred by the 1999 Act (*see* section 62(4) of the 1999 Act) and was amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 65(2) and the 1999 Act, Schedule 4, paragraph 37(6).

(**2**) 1999 c. 8; *see* sections 20(7) and 23(6) for the definitions of "prescribed". The functions of the Secretary of State under sections 20(2) and 23 of the 1999 Act and sections 17 and 126(4) of the National Health Service Act 1977 ("the 1977 Act") are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of, and the entries for the 1977 Act and the 1999 Act in Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act. Section 20(2) was amended by section 12(1) and (4) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17) ("the 2002 Act") and section 23 was amended by section 13(2) of that Act.

(**3**) 1997 c. 46.

"the Audit Commission" ("*y Comisiwn Archwilio*") means the Audit Commission for Local Authorities and the National Health Service in England and Wales(**4**);

"clinical governance arrangements" ("*trefniadau llywodraethu clinigol*") means —

(a) in the case of an NHS trust, or a service provider, arrangements for monitoring and improving the quality of health care(**5**) for which they have responsibility;

(b) in the case of a Local Health Board, arrangements for the purpose of monitoring and improving the quality of health care which is provided to individuals in their area;

"clinical governance review" ("*adolygiad llywodraethu clinigol*") means a review conducted by the Commission under section 20(1)(b) of the Act or regulation 2(c) of the Functions Regulations;

"the Commission" ("*y Comisiwn*") means the Commission for Health Improvement established by section 19 of the Act;

"financial year" ("*blwyddyn ariannol*") means the period of 12 months ending with 31st March;

"Functions Regulations" ("*Rheoliadau Swyddogaethau*") means the Commission for Health Improvement (Functions) Regulations 2000(**6**);

"general review" ("*adolygiad cyffredinol*") means a review conducted by the Commission under section 20(1)(d) of the Act(**7**);

"health care profession" ("*proffesiwn gofal iechyd*") means a profession to which section 60(2) of the Act applies;

"health care professional" ("*gweithiwr proffesiynol gofal iechyd*") means a person who is registered as a member of a health care profession;

"health service inquiry" ("*ymchwiliad gwasanaeth iechyd*") means an inquiry, held or established by the National Assembly for Wales or an NHS body, into any matter relating to the management, provision and quality of health care for which NHS bodies or service providers have responsibility;

"investigation" ("*ymchwiliad*") means an investigation by the Commission pursuant to section 20(1)(c) of the Act(**8**) or regulation 2(e) of the Functions Regulations;

"National Assembly" ("*Cynulliad Cenedlaethol*") means the National Assembly for Wales;

"national service review" ("*adolygiad gwasanaeth gwladol*") means a general review that relates to particular types of health care for which NHS bodies or service providers have responsibility;

"Part II services" ("*gwasanaethau Rhan II*") means general medical services, general dental services, general ophthalmic services or pharmaceutical services under Part II of the 1977 Act;

"relevant Local Health Board" ("*Bwrdd lechyd Lleol perthnasol*") means, in relation to a service provider —

(a) where the service provider provides services in the area of only one Local Health Board, that Local Health Board, or

(b) where the service provider provides services in the area of two or more Local Health Board, each of those Local Health Boards;

"relevant premises" ("*safle perthnasol*") means relevant premises as defined by section 23(6) of the Act;

(**4**) The Audit Commission was continued in being by section 1 of the Audit Commission Act 1998 (c. 18).
(**5**) *See* sections 18(4) and 20(7) of the 1999 Act for the definition of "health care".
(**6**) S.I. 2000/662 as amended by S.I. 2000/797 and S.I. 2002/2469.
(**7**) Section 20(1)(d) was amended by section 20(1) and (2) of the 2002 Act.
(**8**) Section 20(1)(c) was amended by Schedule 1, paragraph 49, of the 2002 Act.

"service provider" ("*darparydd gwasanaeth*") means a person, other than an NHS body(**9**), who —

(a) provides Part II services;

(b) provides services in accordance with a pilot scheme under the 1997 Act; or

(c) provides services in accordance with arrangements under section 28 of the Health and Social Care Act 2001(**10**);

"validation review" ("*adolygiad dilysu*") means a review under section 20(1)(da)(**11**) of the Act.

(4) In these Regulations, references to health care for which a person has responsibility are to be construed in accordance with section 20(5) of the Act.

PART II

ANNUAL WORK PROGRAMME

Annual work programme

2.—(1) Before the beginning of each financial year the Commission must prepare a work programme setting out the activities the Commission is to undertake in that year in the exercise of its functions.

(2) Each work programme shall, in relation to that year, set out —

(a) any particular matters with respect to which the Commission is to provide advice or information on clinical governance arrangements;

(b) proposals as to the NHS bodies in relation to which the Commission is to conduct clinical governance reviews;

(c) proposals as to the persons or bodies in relation to which the Commission is to conduct general reviews;

(d) any particular matters which the Commission is to consider or take into account when conducting a clinical governance review or a general review;

(e) the particular types of health care which are to be the subject of any national service reviews; and

(f) any particular matters with respect to which the Commission is to conduct validation reviews.

(3) The work programme shall be subject to approval by the National Assembly.

(4) The work programme may be varied with the agreement of the National Assembly and shall be varied in accordance with any determinations given by the National Assembly.

(5) Subject to the following regulations and to any directions given by the National Assembly the Commission shall exercise its functions in any financial year in accordance with the work programme relating to that year.

(**9**) See section 20(7) of the Act for the definition of "NHS body"; the definition was amended by Schedule 1, paragraph 49, to the 2002 Act.

(**10**) c.15.

(**11**) Section 20(1)(da) was inserted by section 12(2)(c) of the 2002.

PART III

ADVICE OR INFORMATION ON CLINICAL GOVERNANCE ARRANGEMENTS

Persons to whom advice or information to be given

3.—(1) The Commission shall provide advice or information on clinical governance arrangements to —

(a) the National Assembly;

(b) NHS bodies; and

(c) service providers.

(2) The Commission shall comply with any request by the National Assembly to provide advice or information on specified aspects of clinical governance arrangements to —

(a) the National Assembly;

(b) specified NHS bodies; or

(c) specified service providers.

(3) The Commission may provide advice or information on clinical governance arrangements to any other person or body requesting such advice or information.

Exercise of the function of providing advice or information on clinical governance

4. In exercising its functions under section 20(1)(a) of the Act and regulation 2(a) and (b) of the Functions Regulations the Commission shall take into account —

(a) any guidance relating to clinical governance arrangements given by the National Assembly or the National Institute for Clinical Excellence(**12**);

(b) any advice or guidance relating to clinical governance arrangements given by any body responsible for the regulation of a health care profession.

PART IV

REVIEWS

Effectiveness and adequacy of arrangements

5. In conducting a clinical governance review the Commission shall assess the effectiveness of the arrangements by the NHS body concerned and consider whether those arrangements are adequate.

Review reports

6.—(1) Following the conclusion of a clinical governance review, the Commission shall make a report to the NHS body concerned.

(2) Following the conclusion of a general review other than a national service review, the Commission shall make a report to the persons or bodies that were the subject of the review.

(**12**) *See*S.I.1999/220 as amended by S.I.1999/2219.

(3) At the conclusion of a national service review the Commission shall make a report to the National Assembly.

(4) The reports referred to in paragraph (1) to (3) shall set out —

(a) the findings and conclusions of the Commission; and

(b) any recommendations made by the Commission.

Special interest reports — clinical governance review

7.—(1) If in the course of a clinical governance review a matter comes to the notice of the Commission which it considers should, in the public interest, be brought to the attention of —

(a) any of the persons or bodies to which paragraph (2) applies; and

(b) the public,

the Commission may make the matter the subject of an immediate report in addition to the report to be made at the conclusion of the review.

(2) The persons and bodies referred to in paragraph (1) are —

(a) the NHS body which is the subject of the review;

(b) the National Assembly.

(3) Copies of any report under paragraph (1) shall be sent to —

(a) the NHS body which is the subject of the review;

(b) the National Assembly;

(c) any other NHS body or service provider or other person or body exercising statutory functions, to whom the Commission considers the report should be copied.

Special interest reports — general review

8.—(1) If in the course of a general review a matter comes to the notice of the Commission which it considers should, in the public interest, be brought to the attention of —

(a) any of the persons or bodies to which paragraph (2) applies; or

(b) the public,

the Commission may make the matter the subject of an immediate report in addition to the report to be made at the conclusion of the review.

(2) The persons and bodies referred to in paragraph (1) are —

(a) a person or body which is the subject of the review;

(b) the National Assembly;

(c) in a case where a service provider is the subject of the review, the relevant Local Health Board.

(3) Copies of any report under paragraph (1) shall be sent to —

(a) the person or body who is the subject of the review and to whose attention the Commission considers that the matter should be drawn;

(b) where that person or body is a service provider, the relevant Local Health Board;

(c) the National Assembly;

(d) any other NHS body or service provider or other person or body exercising statutory functions, to whom the Commission considers the report should be copied.