WELSH STATUTORY INSTRUMENTS

2002 No. 1882 (W.191)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002

Made - - - -	*18th July 2002*
Coming into force - -	*26th August 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 29, 43D and 126(4) of the National Health Service Act 1977(**1**) and section 65 of the Health and Social Care Act 2001(**2**), hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 and shall come into force on 26th August 2002.

(2) These Regulations extend to Wales only.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"Abolition of the Tribunal Regulations" ("*Diddymu Rheoliadau'r Tribiwnlys*") means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002(**3**);

"contingent removal" ("*tynnu'n amodol*") shall be construed in accordance with section 49G;

(**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), for the definitions of "prescribed" and "regulations". Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18; and by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), Schedule 2, paragraph 8. Section 43D was inserted by the Health and Social Care Act 2001 (c. 15) ("the 2001 Act"), section 24. Section 126(4) was amended by the 1990 Act, section 65(2); by the 1999 Act, Schedule 4, paragraph 37(6) and by the 2001 Act, Schedule 5, paragraph 5(13)(b). As regards Wales, the functions of the Secretary of State under section 29 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 shall be construed so as to include the amendments made by that Act to the 1977 Act, which is section 43D; these Regulations therefore extend only to Wales.

(**2**) 2001 c. 15.

(**3**) S.I. 2002/1920

"doctor" ("*meddyg*") means a registered medical practitioner;

"director" ("*cyfarwyddwr*") means—

(a) a director of a body corporate; or

(b) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership);

"employment" ("*cyflogaeth*") means any employment whether paid or unpaid and whether under a contract for services or a contract of service, and "employed" and "employer" shall be construed accordingly;

"equivalent body" ("*corff cyfatebol*") means a Health Authority in England, a Health Board or an NHS trust in Scotland or a Health and Social Services Board in Northern Ireland;

"equivalent lists" ("*rhestrau cyfatebol*") means lists kept by an equivalent body;

"FHSAA" means the Family Health Services Appeal Authority constituted under section 49S;

"fraud case" ("*achos a dwyll*") means a case where a person satisfies the second condition for removal from the medical list, set out in section 49F(3) or by virtue of section 49H is treated as doing so;

"General Practice (GP) Registrar" ("*Cofrestrydd Practis Cyffredinol*") means a doctor who is being trained in general practice by a doctor whose name is included in a medical list;

"Health Committee" ("*Pwyllgor Iechyd*") means the Health Committee of the General Medical Council constituted under section 1(3) of the Medical Act 1983;

"licensing or regulatory body" ("*corff trwyddedu neu reoleiddiol*") means the body that licenses or regulates any profession of which the doctor is, or has been a member, and includes a GP educational competent body;

"Medical Act" ("*Deddf Feddygol*") means the Medical Act 1983(**4**);

"a national disqualification" ("*datgymhwysiad cenedlaethol*") means—

(a) a decision made by the FHSAA in relation to a doctor under section 49N,

(b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N,

(c) a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4) of the Abolition of the Tribunal Regulations,

(d) a decision of the Tribunal;

"the NCAA" ("*yr NCAA*") means the National Clinical Assessment Authority established as a Special Health Authority under section 11(**5**);

"the National Health Service Counter Fraud Service" ("*Gwasanaeth Gwrth Dwyll y Gwasanaeth Iechyd Gwladol*") means the service provided by the Secretary of State to deal with inquiries and investigations in relation to any allegations of fraud or corruption in the health service(**6**);

"originating events" ("*digwyddiadau a arweiniodd*") means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;

"Preliminary Proceedings Committee" ("*Pwyllgor Gweithrediadau Rhagarweiniol*") means the Preliminary Proceedings Committee of the General Medical Council constituted under section 1(3) of the Medical Act;

(**4**) 1983 c. 54.
(**5**) The NCAA was established by S.I. 2000/2961.
(**6**) The National Health Service Counter Fraud Service may be contacted by writing to them at the 7th Floor, Hannibal House, Elephant and castle, London SE1 6TE, or e-mailing them on DCFS@doh.gov.UK.

"professional conduct" ("*ymddygiad proffesiynol*") includes matters relating both to professional conduct and professional performance;

"Professional Conduct Committee" ("*Pwyllgor Ymddygiad Proffesiynol*") means the Professional Conduct Committee of the General Medical Council constituted under section 1(3) of the Medical Act;

"Primary Care Act" ("*Deddf Gofal Sylfaenol*") means the 1997 Act(**7**);

"professional registration number" ("*rhif cofrestru proffesiynol*") means the number against the doctor's name in the register maintained by the General Medical Council, with the suffix of the organisational code given to the Health Authority by the Secretary of State on whose list the doctor is included(**8**);

"services list" ("*rhestr wasanaethau*") means a list prepared under section 28DA of the National Health Service Act 1977 or under section 8ZA of the Primary Care Act;

"suspended" ("*atal dros dro*") means—

(a) suspended by a Health Authority under section 49I or 49J or under regulations made under sections 28DA or 43D, or section 8ZA of the Primary Care Act,

(b) suspended by the Tribunal,

(c) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in sections 49I or 49J,

and shall be treated as including a case where a person is treated as suspended by a Health Authority in Wales by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations,

and "suspends" and "suspension" shall be construed accordingly;

"the Tribunal" ("*y Tribiwnlys*") means the Tribunal constituted under section 46(**9**) for England and Wales;

(2) All references in these Regulations to sections are to sections of the National Health Service Act 1977 except where specified otherwise.

(3) Unless the context requires otherwise—

(a) any reference in these Regulations:

(i) to a numbered regulation is a reference to the regulation bearing that number in these Regulations,

(ii) to a numbered Part or Schedule is to the Part of, or Schedule to, these Regulations bearing that number, and

(b) any reference in a regulation or in a schedule to these Regulations to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or schedule.

Supplementary list

3.—(1) A Health Authority shall prepare and publish a supplementary list of all doctors approved by the Health Authority for the purposes of assisting in the provision of general medical services.

(2) In respect of any doctor whose name is included in it, the list shall include—

(a) the doctor's full name;

(b) professional registration number;

(**7**) 1997 c. 46.
(**8**) Organisational Codes are issued by the Department of Health Organisational Codes Service, Room 380D, Skipton House, London SE1 6LH.
(**9**) Section 46 was substituted by the Health Act 1999 c. 8.

(c) the doctor's date of birth, where the doctor consents, or if not, the doctor's date of first registration in the Medical Register; and

(d) the date that the doctor's name was included in the list.

(3) The list shall be available for public inspection.

Application for inclusion in the supplementary list

4.—(1) An application by a doctor for the inclusion of the doctor's name on the supplementary list shall be made by sending the Health Authority an application in writing, which shall include the information mentioned in paragraph (2).

(2) The doctor shall provide the following information—

(a) full name;

(b) sex;

(c) date of birth;

(d) private address and telephone number;

(e) medical qualifications and where obtained, a copy of evidence concerning the applicant's qualifications and experience produced in accordance with the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(**10**);

(f) declaration that the doctor is a fully registered medical practitioner included in the Medical Register;

(g) professional registration number and date of first registration;

(h) details of professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments) separated into:

(i) general practice experience (whether as principal, assistant or deputy),

(ii) hospital appointments,

(iii) other (including obstetric experience),

(iv) any additional supporting particulars, including an explanation of why the doctor was dismissed from any post;

(i) names and addresses of two referees who are willing to provide clinical references relating to two recent posts (which may include any current post) as a doctor which lasted at least three months without a significant break, and where this is not possible, a full explanation and alternative referees;

(j) details of any Health Authority list or equivalent lists from which the doctor has been removed, conditionally removed, or to which the doctor has been refused admission or conditionally included in, or from which the doctor is currently suspended, with an explanation as to why, or particulars of any outstanding application (including deferred applications);

(k) if the applicant is the director of any body corporate that is included in any list of any Health Authority, or equivalent lists, or which has an outstanding application (including a deferred application) for inclusion in any list of any Health Authority or equivalent list, the name and registered office of any such body, and details of the Health Authority or equivalent body concerned;

(l) where the doctor is, or was in the preceding six months, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, details of any

(**10**) S.I. 1997/2817, amended by S.I. 1998/669.

Health Authority list or equivalent lists for which that body has been refused admission, conditionally included, removed, contingently removed or from which it is currently suspended, with an explanation as to why;

(m) any other information that the Health Authority may reasonably require to determine the doctor's application.

(3) The doctor shall provide the following undertakings and consents—

(a) undertaking to provide the declarations required by regulation 9;

(b) undertaking not to assist in providing general medical services in the area of another Health Authority from whose supplementary, medical or services list the doctor has been removed, except where that removal was at the request of the practitioner or in accordance with regulation 10(7), without the consent in writing of that Health Authority;

(c) undertake to notify the Health Authority within 7 days of any material changes to the information provided in the application until the application is finally determined;

(d) undertake to notify the Health Authority if the doctor is included, or applies to be included, in any other list held by a Health Authority or equivalent body;

(e) undertake to co-operate with an assessment by the NCAA when requested to do so by the Health Authority;

(f) consent to the disclosure of information in accordance with regulation 9.

(4) The doctor shall send with the application a declaration as to whether the doctor—

(a) has any criminal convictions in the United Kingdom;

(b) has been bound to keep the peace in the United Kingdom;

(c) has accepted a police caution in the United Kingdom;

(d) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the United Kingdom, or is subject to a penalty which would be the equivalent of being bound over or cautioned;

(e) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;

(f) has been subject to any investigation into the doctor's professional conduct by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;

(g) is currently subject to any investigation into the doctor's professional conduct by any licensing, regulatory or other body anywhere in the world;

(h) is to the doctor's knowledge, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case;

(i) is the subject of any investigation by another Health Authority or equivalent body, which might lead to the doctor's removal from any of that Health Authority's lists or equivalent lists;

(j) is, or has been where the outcome was adverse, the subject of any investigation into the doctor's professional conduct in respect of any current or previous employment;

(k) has been removed, contingently removed, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, or is currently suspended from such a list,

and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.