STATUTORY RULES OF NORTHERN IRELAND

2008 No. 434

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Primary Medical Services Performers Lists) (Amendment) Regulations (Northern Ireland) 2008

Made - - - -	*6th November 2008*
Coming into operation	*8th December 2008*

The Department of Health, Social Services and Public Safety(**1**), makes the following Regulations in exercise of the powers conferred on it by Articles 57G, 106(b) and 107(6) of, and paragraph 1 (8) (a) of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**2**) and in conjunction with the Department of Finance and Personnel.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Primary Medical Services Performers Lists) (Amendment) Regulations (Northern Ireland) 2008 and shall come into operation on 8th December 2008.

(2) In these Regulations "the principal Regulations" means the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(**3**).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 (Interpretation)—

(a) insert after the definition of "conditional disqualification"—

(b) ""conditional inclusion" shall be construed in accordance with regulation 8A;"

""contingent removal" shall be construed in accordance with regulation 10A;";

""corresponding decision" has the same meaning as in paragraph 12 of Schedule 11 to the Order);";

(**1**) See S.I.1999/283 (N.I. 1) Article 3 (6)

(**2**) S.I. 1972/1265 (N.I. 14) Article 57G was inserted by the Primary Medical Services (Northern Ireland) Order 2004 (S.I. 2004/311 (N.I. 2)) and amended by Article 1 of the Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 c.2 (N.I.). Schedule 11 was substituted by Schedule 2 to the Health and Personal Social Services Act (Northern Ireland) 2001 c.3 (N.I.) and amended by Article 8 (3) of S.I. 2004/311 (N.I.2) and Schedule 1 to the Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 c.2 (N.I).

(**3**) S.R. 2004 No. 149

(c) in the definition of "disqualification" omit "local or general" in each place where they occur;

(d) insert after the definition of "medical practitioner"—

""NPSA" means the National Patient Safety Agency (**4**)

(e) omit the definition of "local or general disqualification";

(f) in the definition of "suspended" after "Schedule 11 to the Order" insert "or suspended by a Board under regulation 12A of these Regulations";

(g) insert after the definition of "suspended"—

""third condition for disqualification" has the meaning indicated in paragraph 1(7A) of Schedule 11 to the Order;".

Amendment of regulation 3 of the principal Regulations

3. In regulation 3 (Primary Medical Services Performers)—

(a) at the end of paragraph (1), for "maintained by that Board" substitute "maintained by a Board";

(b) in line 4 of paragraph (3) for, "which that Board" substitute "which a Board".

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 (Primary Medical Services Performers Lists) in paragraph (1) delete from "for which that Board is" to end of paragraph.

Amendment of regulation 5 of the principal Regulations

5. In regulation 5 (Publication of primary medical services performers lists)—

(a) in paragraph (1), delete "within the Board's area";

(b) in sub-paragraph (2)(d), delete "in the Board's area".

Amendment of regulation 7 of the principal Regulations

6. In regulation 7 (Decisions and grounds for refusal and deferral)—

(a) in paragraph 4, second line, for "the second" substitute "a";

(b) in sub-paragraph 4(a), "for the first condition of disqualification (if the applicant were included in the list),or the second" substitute "a";

(c) in sub-paragraphs 4(b) and (c), for "the first condition for disqualification (if the applicant were included in the list) or second" substitute "a".

Insertion of regulation 7A to the principal Regulations

7. After regulation 7 (Decisions and grounds for refusal and deferral) insert—

"**Effect to be given to corresponding decisions in England, Wales and Scotland**

7A.—(1) A Board shall not include the name of any person in the primary medical services performers list, and shall remove the name of any person from the primary medical services list, if any decision has been made in England, Wales or Scotland to deal with that

(**4**) S.I.2005 No.504 amended the National Patient Safety Agency (Establishment and Constitution)Order 2001 to confer on the Agency functions previously carried out by the National Clinical Assessment Authority which was abolished by S.I.2005/502

person in any way which corresponds (whether or not exactly) with the way in which a person may be dealt with under a provision of Schedule 11 to the Order, for so long as that decision is in force.

(2) Where any corresponding decision is made in England, Wales or Scotland by an equivalent body that—

(a) a person is to be included in an equivalent list subject to conditions; or

(b) a person is to be removed from an equivalent list contingent on conditions; or

(c) any conditions so imposed are varied,

a Board shall impose those conditions in relation to the performance, by that person of primary medical services.

(3) The Board may make such modifications of the conditions referred to in paragraph (2) as it considers necessary for them to have the like effect in relation to Northern Ireland as they do in England, Wales or Scotland, but only if the Board has previously given the person concerned written notice of the proposed modifications and an opportunity to make representations about them.".

Amendment of regulation 8 of the principal Regulations

8. In regulation 8 (Requirements with which a medical practitioner included in a primary medical services performers list must comply) after paragraph (2) insert—

"(3) A performer who is included in a primary medical services performers list, shall supply the Board with an enhanced criminal record certificate issued under section 113B of the Police Act 1997 (**5**) in relation to himself if at any time, for reasonable cause, the Board requests him to provide such a certificate.".

Insertion of regulation 8A to the principle Regulations

9. After regulation 8 (Requirements with which a medical practitioner included in a primary medical services performers list must comply) insert—

"**Conditional Inclusion in the primary medical services performers list**

8A.—(1) A Board may determine that, if a performer is to be included in the primary medical services performers list, he is to be subject, while he remains on the list, to the imposition of conditions, having regard to the requirements of article 57G(3B) of the Order (preventing fraud or prejudice to the efficiency of the service).

(2) If a performer fails to comply with a condition under paragraph (1), which has been imposed by a Board, it may remove him from the primary medical services performers list.

(3) Where a Board is considering the removal of a performer from the primary medical services performers list for breach of a condition, it shall give the performer—

(a) notice of any allegations against him;

(b) notice of the grounds for the action it is considering;

(c) the opportunity to make written representations to it within 28 days of the date of the notification under sub-paragraph (b); and

(d) the opportunity to put his case before it at an oral hearing, if the performer requests such a hearing within the 28 day period mentioned in sub-paragraph (c).

(**5**) S.I. 2008 No. 542

(4) If there are no representations within the period specified in paragraph (3)(c), the Board shall decide the matter and, within 7 days of making its decision, notify the performer of—

(a) that decision and the reason for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(5) If there are representations the Board must take them into account before reaching its decision and shall then, within 7 days of making it, notify the performer of—

(a) that decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(6) If the performer requests an oral hearing, this must take place before the Board reaches its decision, and it must then, within 7 days of making that decision, notify the performer of—

(a) that decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(7) When the Board notifies the performer of any decision, it shall inform him that, if an appeal is to be made under regulation 13, it must be made within the period of 28 days beginning with the date on which the Board gave him the notice informing him of its decision and shall explain how to exercise any such right.

(8) The Board shall also notify the performer of his right to have the decision reviewed in accordance with regulation 12B.

(9) Where the Board determines that a performer—

(a) may be included in the primary medical services performers list, but subject to conditions imposed under this regulation; or

(b) is to be subject to conditions while he remains included in the primary medical services performers list,

the performers name may be included, or continue to be included, in that list during the period under which an appeal may be brought before the Department pursuant to regulation 13, or if an appeal is brought, until such time as that appeal has been decided, provided the performer agrees in writing to be bound by the conditions imposed until the time for the appeal has expired, or the appeal is decided."

Amendment of regulation 9 of the principal regulations

10. In regulation 9 (Removal from primary medical services performers lists) after sub-paragraph (2)(b) insert—

"(c) remove a performer from a primary medical services performers list under regulations 8A or 10A of these Regulations."

Insertion of regulation 10A to the principal Regulations

11. After regulation 10 (Removal from the primary medical services performers list of medical practitioners not performing primary medical services) insert—

"**Contingent removal from the primary medical services performers list**

10A.—(1) In an efficiency or a fraud case, a Board may decide to contingently remove a performer from its primary medical services performers list.

(2) If a Board decides to contingently remove the performer in accordance with paragraph (1), it must impose such conditions as it may decide, having regard to the requirements of Article 57G(3B) of the Order (preventing fraud or prejudice to the efficiency of the service).

(3) If the Board determines that the performer has failed to comply with a condition imposed by the Board under paragraph (2) it may decide to—

(a) vary the conditions imposed;

(b) impose new conditions; or

(c) remove the performer from the primary medical services performers list.

(4) Where a Board is considering the removal of a performer from the primary medical services performers list for breach of a condition, it shall give the performer—

(a) notice of any allegation against the performer;

(b) notice of the grounds for the action it is considering;

(c) the opportunity to make written representations to it within 28 days of the date of the notification under sub-paragraph (b); and

(d) the opportunity for an oral hearing before it, if the performer requests one within the 28 day period mentioned in sub-paragraph (c).

(5) If there are no representations within the period specified in paragraph 4(c), the Board shall decide the matter and, within 7 days of making that decision, notify the performer of—

(a) that decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(6) If there are representations the Board must take them into account before reaching its decision and shall then, within 7 days of making it, notify the performer of—

(a) that decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(7) If the performer requests an oral hearing, this must take place before the Board reaches its decision, and it must then, within 7 days of making that decision, notify the performer of—

(a) that decision and the reason for it (including any facts relied upon); and

(b) any right of appeal under regulation 13 (Appeal to the Department).

(8) When the Board notifies the performer of any decision, it shall inform the performer that, if an appeal is to be made under regulation 13, it must be made within the period of 28 days beginning with the date on which it gave the performer notice of its decision and shall explain how to exercise any such right.

(9) The Board shall also notify the performer of his right to have the decision reviewed in accordance with regulation 12B.

(10) Where the Board determines that a performer—

(a) may be included in the primary medical services performers list, but subject to conditions imposed under this regulation; or

(b) is to be subject to conditions while remaining included in the primary medical service performers list,

the performers name may be included, or continue to be included, in that list during the period under which an appeal may be brought to the Department pursuant to regulation 13, or if an appeal is brought, until such times as that appeal has been decided, provided the