STATUTORY RULES OF NORTHERN IRELAND

2004 No. 149

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004

Made - - - -	*30th March 2004*
Coming into operation	*1st April 2004*

The Department of Health, Social Services and Public Safety(**1**), 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 of all other powers enabling it in that behalf, in conjunction with the Department of Finance and Personnel, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004 and shall come into operation on 1st April 2004.

Interpretation

2. In these Regulations –

"the Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"the 2002 Order" means the Medical Act 1983 (Amendment) Order 2002(**3**);

"the 2003 Order" means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**4**);

"the 2004 Order" means the Primary Medical Services (Northern Ireland) Order 2004(**5**);

"appliance" means an appliance which is included in a list for the time being approved by the Department for the purposes of Article 63 of 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)). 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. 12)
(**3**) S.I. 2002/3135
(**4**) S.I. 2003/1250
(**5**) S.I. 2004/311 (N.I. 2)

"approved medical practice" has the meaning indicated in section 11(4) of the Medical Act 1983(**6**);

"armed forces GP" means a medical practitioner who is employed on a contract of service by the Ministry of Defence, whether or not as a member of the armed forces of the Crown, and

(a) before the coming into operation of Article 10 of the 2003 Order holds either a certificate of prescribed experience under regulation 10 of, or a certificate of equivalent experience under regulation 12 of, the Vocational Training Regulations; or

(b) upon the coming into operation of paragraph 22 of Schedule 8 to the 2003 Order, is an eligible general medical practitioner pursuant to that paragraph, other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to that Order;

"Board" means a Health and Social Services Board;

"both registers" means the register of medical practitioners and, after the coming into operation of Article 10 of the 2003 Order, that register and the GP Register;

"CCT" means Certificate of Completion of Training awarded under Article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the Postgraduate Medical Education and Training Board specified in Article 20(3)(a) of that Order;

"Committee on Professional Performance" means the Committee on Professional Performance of the General Medical Council referred to in section 1(3) of the Medical Act 1983(**7**);

"conditional disqualification" has the meaning indicated in paragraph 4 of Schedule 11 to the Order(**8**) and includes a decision under provisions in operation in England, Wales or Scotland corresponding to a conditional disqualification;

"disqualification" means local or general disqualification by the Tribunal under paragraph 3(2) of Schedule 11 to the Order (or a decision under provisions in operation in England, Wales or Scotland corresponding to local or general disqualification), but does not include conditional disqualification, and "disqualified" shall be construed accordingly;

"equivalent body" means a Primary Care Trust established under section 16A of the National Health Services Act 1977(**9**), a Local Health Board established under section 16BA of the National Health Services Act 1977(**10**) and a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(**11**);

"equivalent list" means a list kept by an equivalent body;

"first condition for disqualification" has the meaning indicated in paragraph 1(6) of Schedule 11 to the Order;

"Fitness to Practise Panel" means a panel constituted pursuant to paragraph 19E of Schedule 1 to the Medical Act 1983(**12**);

"general medical practitioner" means a GP Registrar or –

(a) on the coming into operation of Article 10 of the 2003 Order, a medical practitioner whose name is included in the GP Register, otherwise than by virtue of paragraph 1(d) of Schedule 6 of that Order; and

(**6**) 1983 c. 54. Section 11(4) was amended by the National Health Service (Primary Care) Act 1997 (c. 46), section 35(4) and Schedule 2, Part 1, paragraph 61 and paragraph 48 of Schedule 11 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43)

(**7**) 1983 c. 54. Section 1(3) was amended by the Medical (Professional Performance) Act 1995 (c. 41), Schedule, paragraph 2 and S.I. 2000/1803

(**8**) Schedule 11 was substituted by Schedule 2 to the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3) and amended by S.I. 2004/311 (N.I. 12)

(**9**) 1977 c. 49. Section 16A is inserted by section 2(1) of the Health Act 1999 c. 8

(**10**) Section 16BA is inserted by section 6 of the National Health Service Reform and Health Care Professions Act 2002 c. 17

(**11**) 1978 c. 29

(**12**) 1983 c. 54. Paragraph 19E is inserted by Article 5(3) of the 2002 Order, with effect from such date as the Secretary of State specify

(b) until the coming into operation of that Article, a medical practitioner who is either –

(i) until the coming into operation of paragraph 22 of Schedule 8 to the 2003 Order, suitably experienced within the meaning of Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978(**13**), section 21(2) of the National Health Service (Scotland) Act 1978(**14**) or section 31(2) of the National Health Service Act 1977(**15**) or would have been so considered notwithstanding the repeal of the appropriate provision; or

(ii) upon the coming into operation of paragraph 22 of Schedule 8 to the 2003 Order, an eligible general medical practitioner pursuant to that paragraph other than by virtue of having an acquired right under paragraph 1(d) of Schedule 6 to the 2003 Order;

"General Medical Services Contracts Regulations" means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(**16**);

"GP Register", after the coming into operation of Article 10 of the 2003 Order, means the register kept by virtue of that Article;

"GP Registrar" –

(a) until the coming into operation of Article 5 of the 2003 Order, means a medical practitioner who is being trained in general practice by a medical practitioner who –

(i) has been approved for that purpose by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the Vocational Training Regulations; and

(ii) performs primary medical services; and

(b) after the coming into operation of that Article, means a medical practitioner who is being trained in general practice by a GP Trainer, whether as part of training leading to a CCT, or otherwise;

"GP Trainer" means a medical practitioner who is –

(a) until the coming into operation of Article 4(5)(d) of the 2003 Order, approved as a GP Trainer by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the Vocational Training Regulations; or

(b) from the coming into operation of that Article, approved by the Postgraduate Medical Education and Training Board under Article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under Article 5(1)(c)(i) of that Order;

"health case" has the meaning ascribed to it by section 35E(4) of the Medical Act 1983(**17**);

"licensing or regulatory body" means a body that licenses or regulates any profession of which the general medical practitioner is, or has been a member, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

"list" has the same meaning as in paragraph 1(8) of Schedule 11 to the Order;

"Local Medical Committee" means the committee of that name recognised by a Board in relation to its area under Article 55B of the Order(**18**) (Local Medical Committees);

(**13**) S.I. 1978/1907 (N.I. 26)
(**14**) 1978 c. 29
(**15**) 1977 c. 49
(**16**) S.R. 2004 No. 140
(**17**) Section 35E is inserted by Article 13 of the 2002 Order, with effect from such date as the Secretary of State may specify
(**18**) Article 55B was inserted by paragraph 9 of Schedule 1 to the 2004 Order

"Local Pharmaceutical Committee" means the committee of that name recognised by a Board in relation to its area under Article 55(3) of the Order(**19**) (Recognition of local representative committees);

"medical practitioner" means a registered medical practitioner, and includes for the purposes of these Regulations a person provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) or section 21 (provisional registration) of the Medical Act 1983(**20**) or a person for the time being registered under section 22 (limited registration of persons by virtue of overseas qualifications) of that Act(**21**) with limited registration;

"local or general disqualification" has the meaning indicated in paragraph 3(2) of Schedule 11 to the Order(**22**);

"performer" means a person included in a primary medical services performers list;

"pharmacist" means a pharmacist, other than a supplier of appliances only, whose name is included in the pharmaceutical list under Article 63 of the Order or who is employed by a person whose name is so included;

"primary medical services performers list" means a list of medical practitioners prepared pursuant to regulation 4(1);

"professional conduct" includes matters relating both to professional conduct and professional performance;

"Professional Conduct Committee" means the Professional Conduct Committee of the General Medical Council referred to in section 1(3) of the Medical Act;

"professional registration number" means the number against the medical practitioner's name in the register of medical practitioners kept by the General Medical Council;

"provider of primary medical services" means a general medical practitioner, who, in addition to performing primary medical services, provides (including by virtue of being a partner in a partnership which so provides) primary medical services in accordance with arrangements under Article 56(2) (primary medical services), an agreement under Article 15B (Primary medical or personal dental services) or a general medical services contract under Article 57 (general medical services contracts: introductory) of the Order(**23**);

"register of medical practitioners" has the meaning given to it by section 2(2) of the Medical Act 1983(**24**);

"relevant service in the armed forces" means whole time service in the armed forces of the Crown in a national emergency, as a volunteer or otherwise, or a compulsory whole-time service in those forces, including any service resulting from any reserve liability, or any equivalent service by a person liable for compulsory whole-time service in those forces;

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

"suspended" means suspended as respects the performance of primary medical services by a direction of the Tribunal made pursuant to paragraphs 9 (applications for interim suspension)

(**19**) Article 55 was substituted by section 42 of the Health and Personal Social Service Act (Northern Ireland) 2001 and amended by paragraph 7 of Schedule 1 to the 2004 Order

(**20**) 1983 c. 54. Section 15 was amended by the National Health Service (Primary Care) Act 1997 (c. 46) ("the 1997 Act"), Schedule 2, Part 1, paragraph 61(4); section 15A was inserted by S.I. 2000/3041. Section 21 was amended by the 1997 Act, Schedule 2, Part 1, paragraph 61(5) and by S.I. 1996/1591 and 2002/3135

(**21**) Section 22 was amended by S.I. 1996/1951 and 2002/3135

(**22**) Schedule 11 was substituted by Schedule 2 to the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)

(**23**) Article 56(2) was substituted by Article 3 of the 2004 Order, Article 15B was inserted by the Health Service (Primary Care) (N.I.) Order 1997 (1997/1177 (N.I. 7)) and was amended by Article 6(2) of the 2004 Order, and Article 57 was inserted by Article 4 of the 2004 Order

(**24**) 1983 c. 54. Section 2 was amended by S.I. 1996/11591

or 10 (suspension pending appeal) of Schedule 11 to the Order or under any provisions in operation in England, Wales or Scotland corresponding thereto;

"the Vocational Training Regulations" mean the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(**25**);

"vocational training scheme" means –

(a) a pre-arranged programme of training which is designed for the purpose of enabling a medical practitioner to gain the medical experience prescribed by regulation 6(1) of the Vocational Training Regulations; or

(b) after the coming into operation of Article 4 of the 2003 Order, post graduate medical education and training necessary for the award of a CCT under that Article; and

"writing" includes, except in regulation 6(1), electronic mail.

Primary Medical Services Performers

3.—(1) Subject to paragraphs (2), (3) and (4), a health care professional who is a medical practitioner may not perform any primary medical service which a Board is, under Article 56 of the Order(**26**), under a duty to provide or secure the provision of unless that medical practitioner is included in a primary medical services performers list maintained by that Board.

(2) A medical practitioner who is provisionally registered under section 15 (provisional registration), 15A (provisional registration for EEA nationals) or section 21 (provisional registration) of the Medical Act 1983 may perform primary medical services despite not being included in the primary medical services performers list of any Board, where those services are performed in the course of the practitioner's employment in a resident medical capacity in an approved medical practice.

(3) A GP Registrar, who has applied in accordance with these Regulations to a Board to have the GP Registrar's name included in a primary medical services performers list maintained by that Board, may, despite not being included in that list, perform any primary medical service which that Board is, under Article 56 of the Order, under a duty to provide or secure the provision of, until the first of the following events arises –

(a) the Board notifies the GP Registrar of the Board's decision on that application;

(b) the end of a period of 2 months, starting with the date on which the GP Registrar's vocational training scheme begins.

(4) Paragraph (1) shall not apply to the provision of any primary medical service by a medical practitioner not included in a list specified in paragraph (1) at any time prior to 1st October 2004.

Primary Medical Services Performers Lists

4.—(1) Each Board shall prepare in accordance with these Regulations a primary medical services performers list of medical practitioners who may perform primary medical services for which that Board is, under Article 56 of the Order, under a duty to provide or secure the provision of.

(2) A primary medical services performers list shall contain in respect of each performer included in the list the following information –

(a) the full name and professional registration number of the performer;

(b) provided that the performer consents to its inclusion, the date of birth, or, if there is no consent, the date of first full registration as a medical practitioner (whether pursuant to the Medical Act 1983 or otherwise), of the performer;

(**25**) S.R. 1998 No. 13
(**26**) S.I. 1972/1265 (N.I, 14). Article 56 was inserted by Article 3 of the 2004 Order