

OFFERYNNAU STATUDOL CYMRU

2002 Rhif 1896 (Cy.197)

Y GWASANAETH IECHYD GWLADOL, CYMRU

Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Meddygol Cyffredinol) (Diwygio) (Cymru) (Rhif 2) 2002

Wedi'u gwneud - - 18 Gorffennaf 2002
Yn dod i rym - - 26 Awst 2002

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 29, 29A, 29B, 43ZA, 49F, 49I, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 65 a 126(4) o Ddeddf y Gwasanaeth Iechyd Gwladol 1977(1) drwy hyn yn gwneud y Rheoliadau canlynol:

Enwi, cychwyn, dehongli a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Meddygol Cyffredinol) (Diwygio) (Cymru) (Rhif 2) 2002 a deuant i rym ar 26 Awst 2002.

(2) Yn y Rheoliadau hyn ystyr “y prif Rheoliadau” (“*the principal Regulations*”) yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Meddygol Cyffredinol) 1992(2).

(3) Caiff y prif Rheoliadau eu diwygio yn unol â darpariaethau canlynol y Rheoliadau hyn.

(4) Mae pob cyfeiriad yn y Rheoliadau hyn at adrannau yn gyfeiriadau at adrannau Deddf y Gwasanaeth Iechyd Gwladol 1977 oni nodir yn wahanol.

(5) Mae'r Rheoliadau hyn yn ymestyn i Gymru yn unig.

Diwygio rheoliad 2

2. Yn rheoliad 2 (dehongli)—

- (1) 1977 p.49; gweler adran 128(1) fel y'i diwygiwyd gan Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990 (p. 19), adran 26(2)(g) ac (i), am y diffiniadau o “prescribed” a “regulations”. Cafodd adran 29 ei hymestyn gan Ddeddf Iechyd a Meddyginiaethau 1988 (p. 49), adran 17; a'i diwygio gan Ddeddf y Gwasanaethau Iechyd 1980 (p. 53), adrannau 1 a 7 ac Atodlen 1, paragraff 42(b); gan Ddeddf Iechyd a Gwasanaethau Cymdeithasol a Dyfarniadau Nawdd Cymdeithasol 1983 (p. 41), Atodlen 6, paragraff 2; gan Ddeddf Feddygol 1983 (p. 54), adran 56(1) ac Atodlen 5, paragraff 16(a); gan O.S. 1985/39, erthygl 7(3); gan Ddeddf yr Awdurdodau Iechyd 1995 (p. 17), Atodlen 1, paragraff 18; a chan Ddeddf y Gwasanaeth Iechyd Gwladol (Gofal Sylfaenol) 1997 (p. 46) (“Deddf 1997”), Atodlen 2, paragraff 8. Mewnosodwyd adran 43ZA gan Ddeddf 2001, adran 25. Diwygiwyd adran 126(4) gan Ddeddf 1990, adran 65(2); a chan Ddeddf 1999, Atodlen 4, paragraff 37(6). Mae swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 29, 29A, 29B a 126(4) o Ddeddf 1977 wedi'u trosglwyddo i Gynulliad Cenedlaethol Cymru o dan erthygl 2 o, ac Atodlen 1 i, Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S. 1999/672, fel y'i diwygiwyd gan Ddeddf 1999, adran 66(5); mae adran 68 o Ddeddf 2001 yn darparu y dylid dehongli Atodlen 1 fel ei bod yn cynnwys y diwygiadau a wnaed gan y Ddeddf honno i Ddeddf 1977 sef adrannau 43ZA a 43F i 43R.
- (2) O.S. 1992/635.

- (a) rhowch y diffiniadau canlynol yn eu lle priodol yn nhrefn yr wyddor—
- ““Abolition of the Tribunal Regulations” means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002;”;(3)
- ““director” 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” 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” 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” means lists kept by an equivalent body;”;
- ““FHSAA” means the Family Health Services Appeal Authority constituted under section 49S of the Act;”;
- ““fraud case” means a case where a person satisfies the second condition for removal from the medical list, set out in section 49F(3) of the Act, or by virtue of section 49H of the Act is treated as doing so;”;
- ““licensing or regulatory body” means the body that licenses or regulates any profession of which the doctor is or has been a member;”;
- ““lists” means lists referred to in section 49N(1)(a) to (c);”;
- ““Medical Supplementary List” means a list prepared by a Health authority in accordance with section 43D of the Act of doctors approved by the Health authority for the purpose of assisting in the provision of general medical services;”;
- ““a national disqualification” means—
- (a) a decision made by the FHSAA in relation to a doctor under section 49N of the Act,
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of the Act,
- (c) a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4)(b) of the Abolition of the Tribunal Regulations,
- (d) a decision by the Tribunal, which applies to the whole of Wales;”
- ““the NCAA” means the National Clinical Assessment Authority established as a Special Health Authority under section 11 of the Act;”;
- ““the National Health Service Counter Fraud Service” 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;”;
- ““originating events” means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;”;
- ““professional conduct” includes matters relating to both professional conduct and professional performance;”;

““professional registration number” means the number against the doctor’s name in the register maintained by the General Medical Council;”;

““suspended” means—

- (i) suspended by a Health Authority under sections 49I or 49J of the Act or under regulations made under sections 28DA or 43D of the Act, or section 8ZA of the 1997 Act,
- (ii) in relation to England, suspended by the Tribunal before 14th December 2001,
- (iii) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in section 49I or 49J of the Act,

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;”;

- (b) ar gyfer y diffiniad o “the Tribunal” rhwch yn ei le ““the Tribunal” means the Tribunal constituted under section 46 of the Act for England and Wales;”;ac
- (c) hepgorwch y diffiniadau o “FHSA”, “Family Health Services Authority” a “suspended by direction of the Tribunal”;”.

(2) Yn narpariaethau'r prif Reoliadau a restrwyd yn yr Atodlen i'r Rheoliadau hyn—

- (a) pryd bynnag y bydd “FHSA” yn ymddangos rhwch “Health Authority” yn ei le,
- (b) pryd bynnag y bydd “An” yn ymddangos yn union o flaen “FHSAA” rhwch “A” yn ei le, ac
- (c) pryd bynnag y bydd “an” yn ymddangos yn union o flaen “FHSAA” rhwch “a” yn ei le.

Diwygio rheoliad 6

3. Yn rheoliad 6 (diwygio neu dynnu oddi ar y rhestr feddygol), ar gyfer paragraff (6) rhwch

“(6) Where a Health Authority is investigating a doctor—

- (a) for the purpose of deciding whether or not to exercise its powers under section 49F, 49G or 49I of the Act;
- (b) in order to see whether the doctor has failed to comply with a condition imposed on the doctor’s inclusion under regulation 18M so as to justify the removal of the doctor from the list; or
- (c) who has been suspended under section 49I(1)(a) of the Act ,

the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly has given its consent, until the matter has been finally determined by the Health Authority;

- (b) where a Health Authority has decided to remove a doctor from a list under section 49F or 49G, or contingently remove under section 49G, or remove the doctor for a breach of a condition imposed on inclusion under regulation 18M, but has not yet given effect to its decision, the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly has given its consent; and
- (c) where a Health Authority has suspended a doctor under section 49I(1)(b), the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly has given its consent,

until the decision of the relevant court or body is known and the matter has been considered and finally determined by the Health Authority.”.

Diwygio rheoliad 7

4. Yn rheoliad 7 (tynnu oddi ar y rhestr feddygol)—

- (a) ar ddiwedd paragraff (1) hepgorwch is-baragraff (d) ac (e),
- (b) ym mharagraff (3)(a) ar ôl “as mentioned in section 29(8) of the Act (suspension by direction or order of the Health committee or by interim order of the Preliminary Proceedings Committee)” ychwanegwch “or in section 41A of the Medical Act 1983(4) (interim orders committee).”;
- (c) ar gyfer paragraff (3)(c), rhowch yn ei le—
 - “(c) any period during which the doctor provided no medical services by reason only that he was suspended from the medical list.”.

Mewnosod rheoliad newydd

5. Ar ôl rheoliad 7 (tynnu oddi ar y rhestr feddygol) mewnosodwch y rheoliadau newydd canlynol—

“Supplementary matters relating to removal

7A. In addition to the services covered by the definition of “health scheme” in section 49F(8), the following shall also be health schemes for the purposes of sub-section (3) of that section—

- (a) health services, including medical and surgical treatment, provided by Her Majesty’s Forces;
- (b) Port Health Authorities constituted under the Public Health (Control of Disease) Act 1984(5);
- (c) health services provided to a prisoner in the care of the medical officer or such other officer of a prison appointed for the purposes of section 7 of the Prison Act 1952(6);
- (d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.

Criteria for decisions on removal

7B.—(1) Where a Health Authority is considering whether to remove a doctor under section 49F(4) of the Act (unsuitability case), it shall consider the information supplied under paragraph 36A(1), (2), (4) and (5) of Schedule 2, and must apply the criteria set out in paragraph (2).

- (2) The criteria referred to in paragraph (1) are—
 - (a) the nature of any criminal offence or investigation or incident;
 - (b) the length of time since any such offence or incident was committed, and since any criminal conviction or investigation;
 - (c) whether there are other criminal offences to be considered;

(4) 1983 p.54.
 (5) 1984 p.22.
 (6) 1952 p.52.

- (d) the penalty imposed on any criminal conviction or the outcome of any investigation;
 - (e) the relevance of any criminal offence or investigation into professional conduct to the provision by the doctor of general medical services and the likely risk to patients;
 - (f) whether any criminal offence was a sexual offence to which Part I of the Sexual Offences Act 1997(7) applies;
 - (g) whether the doctor has been refused admittance to, conditionally included, removed, contingently removed or is currently suspended from other Health Authority or equivalent lists, and if so, what the facts were in those cases and what were the reasons given by the Health Authority in the case; and
 - (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which was refused admittance to, conditionally included, removed or contingently removed from other Health Authority list, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action,
 - (i) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.
- (3) Where a Health Authority is considering removal of a doctor under section 49F(3) of the Act (fraud case), it shall consider the information from the doctor supplied under paragraph 36A(1), (2), (4) and (5) of Schedule 2, and must apply the criteria set out in paragraph (4).
- (4) The criteria referred to in paragraph (3) are—
- (a) the nature of any fraud case;
 - (b) the length of time since the last incident of fraud (if any) occurred, and since any investigation into that incident of fraud was concluded;
 - (c) whether there are other incidents of fraud or other criminal offences to be considered;
 - (d) any action taken by licensing, regulatory body or other body as a result of any such incident;
 - (e) the relevance of any investigation into the incident of fraud to the provision by the doctor of general medical services and the likely risk to patients or to public finances;
 - (f) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such actions; and
 - (g) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which

led to such action and the reasons given by the Health Authority or equivalent body for the action and;

- (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.

(5) Where a Health Authority is considering removal of a doctor under section 49F(2) of the Act (an efficiency case), it shall consider the information from the doctor supplied under paragraph 36A(1),(2),(4) and (5) of Schedule 2, and must apply the criteria set out in paragraph (6).

(6) The criteria referred to in paragraph (5) are—

- (a) whether the doctor's continued inclusion in the list would be prejudicial to the efficiency of the general medical services provided by the doctor;
- (b) the length of time since any incident occurred, and since the investigation was concluded;
- (c) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such incident;
- (d) the nature of the incident and whether there is a likely risk to patients;
- (e) whether the doctor has previously failed to make a declaration or comply with an undertaking required by these Regulations;
- (f) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reason given by the Health Authority or equivalent body for the actions;
- (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed or suspended from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for the actions; and
- (i) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.

(7) In making any decision under section 49F, the Health Authority shall take into account the effect of all relevant incidents and offences relating to the doctor of which it is aware, whichever condition it relies on.

(8) When making a decision on any condition in section 49F, the Health Authority shall state in its decision on which condition (or conditions) in section 49F of the Act it relies.

Cases where the Health Authority must remove a doctor

7C.—(1) The Health Authority must remove the doctor from the medical list where it becomes aware that the doctor—

- (a) has been convicted in the United Kingdom of murder;

(b) has been convicted in the United Kingdom since 30th July 2002 of a criminal offence and has been sentenced to a term of imprisonment of over six months.

(2) The Health Authority shall notify the doctor immediately that the doctor has been removed from the list.

Notifications by Health Authorities

7D.—(1) Where a Health Authority—

- (a) refuses to approve or nominate a doctor under section 49F of the Act;
- (b) removes a practitioner under section 49F of the Act;
- (c) contingently removes a practitioner under section 49G of the Act; or
- (d) suspends a practitioner under section 49I or 49J,

it shall notify the persons listed in paragraph (2), and shall additionally notify those listed in paragraph (3) if so requested by those persons or bodies in writing (including electronically) of the matters set out in paragraph (4).

(2) Where paragraph (1) applies, a Health Authority shall notify—

- (a) the National Assembly for Wales;
- (b) any Health Authority in Wales that has the doctor, or a body corporate of which the doctor is director, on any of its lists, or is considering an application for inclusion in any of its lists by such a doctor or body corporate;
- (c) the Scottish Executive;
- (d) the Secretary of State;
- (e) the Northern Ireland Executive;
- (f) the General Medical Council or other professional regulatory body;
- (g) the local medical committee for its area;
- (h) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the doctor in a professional capacity;
- (i) where it is a fraud case, the National Health Service Counter Fraud Service.

(3) The persons or bodies additionally referred to in paragraph (1) are persons or bodies that can establish that they are considering employing the doctor in a professional capacity.

(4) The matters referred to in paragraph (1) are—

- (a) identifying details of the doctor;
- (b) professional registration number;
- (c) date and copy of the decision of the Health Authority;
- (d) contact name of a person in the Health Authority for further enquiries.

(5) The Health Authority shall send the doctor concerned a copy of any information about the doctor provided to the persons or bodies specified in paragraph (2) or (3) and any correspondence with those persons or bodies.

(6) Where the Health Authority has notified any of the persons or bodies specified in paragraph (2) or (3) of the matters set out in paragraph (4), it may in addition, if so requested by that person or body, notify that person or body of any evidence that was considered, including representations made by the doctor.

(7) Where a Health Authority is notified by the FHSAA that it has imposed a national disqualification on a doctor whom the Health Authority had removed from its list, the Health

Authority shall notify the persons or bodies listed in paragraph (2)(b), (g), (h) and (i) and paragraph (3).

(8) Where a decision is changed on review or appeal, or a suspension lapses, the Health Authority shall notify any body that was notified of the original decision of the later decision.

Procedure on removal

7E.—(1) Where a Health Authority is considering—

- (a) removing or contingently removing a doctor under section 49F of the Act (other than in cases specified in regulation 7C);
- (b) contingently removing a doctor under section 49G of the Act;
- (c) removing a doctor for a breach of a condition imposed under regulation 49G of the Act; or
- (d) removing a doctor for breach of a condition imposed under regulation 18M,

it shall follow the procedures set out in paragraphs (3) to (8) below.

(2) Where a Health Authority is notified by the FHSAA that it has considered—

- (a) an appeal by a doctor against a contingent removal by the Health Authority and has decided to remove the doctor instead; or
- (b) an appeal by a doctor against a conditional inclusion, where the doctor has been conditionally included in the list until the appeal has been decided, and has decided not to include the doctor,

the Health Authority shall remove the doctor and shall notify the doctor immediately that it has done so.

(3) Before reaching a decision of the kind mentioned in paragraph (1) the Health Authority shall—

- (a) give the doctor notice in writing of any allegation against him;
- (b) give the doctor notice of what action the Health Authority is considering and on what grounds;
- (c) give the doctor the opportunity to make written representations to the Health authority within 28 days of the date of the notification under sub-paragraph (b);
- (d) give the doctor the opportunity to put his or her case at an oral hearing before the Health Authority, if the doctor so requests within the 28 days period mentioned in sub-paragraph (c).

(4) If there are representations, the Health Authority must take them into account before reaching its decision, and notifying the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal.

(5) If there are no representations within the period specified in paragraph (3)(c), the Health Authority shall inform the doctor of its decision, the reasons for it (including any facts relied upon) and of any right of appeal.

(6) If the doctor requests an oral hearing, this must take place before the Health Authority reaches its decision, and the Health Authority must then notify the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal.

(7) When the Health Authority notifies the doctor of any decision, it shall inform the doctor that if the doctor wishes to exercise a right of appeal, the doctor has 28 days from the date of the decision to do so, and tell the doctor how to do so.

(8) The Health Authority shall also notify the doctor of his right to have the decision reviewed in accordance with section 49L of the Act.

Procedure on suspension

7F.—(1) Before reaching a decision to suspend a doctor under section 49I or 49J of the Act, it shall—

- (a) notify the doctor in writing of any allegation against the doctor;
- (b) give the doctor notice of what action the Health Authority is considering and on what grounds;
- (c) give the doctor the opportunity to put his or her case at an oral hearing before the Health Authority on a specified day, provided that at least 24 hours' notice of the hearing is given;
- (d) give the doctor notice of the doctor's right of review under section 49L of the Act.

(2) If the doctor does not wish to have an oral hearing or does not attend the oral hearing, the Health Authority shall inform the doctor of its decision and the reasons for it (including any facts relied upon).

(3) If an oral hearing takes place, the Health Authority shall take into account any representations made before it reaches its decision.

(4) The Health Authority may suspend the doctor with immediate effect following the hearing.

(5) The Health Authority shall notify the doctor of its decision and the reasons for it (including any facts relied upon).

Procedure on review of Health Authority decision

7G.—(1) If a Health Authority decides to review its decision to conditionally include, contingently remove or suspend a doctor under section 49I of the Act, it shall—

- (a) notify the doctor in writing that it intends to review its decision;
- (b) notify the doctor of what action it has in mind and reasons for it;
- (c) to give the doctor the opportunity to make written representations to the Health Authority within 28 days from the date of the notification under subparagraph (b);
- (d) give the doctor the opportunity to put his or her case at an oral hearing if the doctor requests one within the 28 day period mentioned above.

(2) If there are representations, the Health Authority must take them into account before reaching its decision.

(3) If the doctor requests an oral hearing, this must take place before the Health Authority reached its decision.

(4) The Health Authority shall notify the doctor of its decision and reasons for it (including any facts relied upon).

(5) When the Health Authority notifies the doctor of any decision, it shall inform the doctor of any right of appeal, that the doctor has 28 days from the date of the decision to exercise that right if the doctor wishes do so, and tell the doctor how to do so.

(6) The Health Authority shall also notify the doctor of the doctor's right to have the decision further reviewed in accordance with section 49L of the Act.

National Disqualification

7H.—(1) on making a decision to impose a national disqualification, the FSHAA states that it is of the opinion that the criminal or professional conduct of the doctor is such that there is no realistic prospect of a further review being successful if held within the period specified in section 49N(8)(a) of the Act, in which case the reference to “two years” in that provision shall be a reference to five years;

(2) if on the last review by the FHSAA of a national disqualification the doctor was unsuccessful and the FHSAA states that it is of the opinion that there is no realistic prospect of a further review being successful if held within a period of three years beginning with the date of its decision on that review, the reference to “one year” in section 49N(8) of the Act shall be a reference to three years;

(3) if the FHSAA states that it is of the opinion that because a criminal conviction considered by the FHSAA in reaching its decision has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” in section 49N(8) of the Act shall be a reference to the period already elapsed;

(4) if the FHSAA is of the opinion that because the decision of a licensing, regulatory or other body has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” or “one year” in section 49N(8) of the Act shall be a reference to the period that has already elapsed .”.

Diwygio rheoliad 18E y prif Reoliadau

6.—(1) Yn rheoliad 18E (meini prawf ar gyfer cymeradwyo ac enwebu)—

(a) Hepgorwch baragraff (1)(bb);

(b) Ar ôl paragraff (d) ychwanegwch—

“(e) unless the Health Authority has checked as far as practicable the references and information provided by the doctor in accordance with paragraphs 5, 6 and 6A of Part III of Schedule 3;

(f) unless the Health Authority has checked with National Health Service Counter Fraud Service whether the doctor has any record of a fraud case.”.

Mewnosod rheoliad 18EE a 18EF newydd

7. Ar ôl rheoliad 18E mewnosodwch—

“Grounds for refusal

18EE.—(1) The grounds on which a Health Authority may refuse to approve a doctor are—

(a) that the Health Authority having considered the declaration required by paragraph 6A of Part III of Schedule 3 and any other information in their possession in relation to this application considers the doctor is unsuitable to be included in the list;

(b) that having checked the information provided by the doctor in paragraphs 5 and 6 of Part III of Schedule 3 consider the practitioner is unsuitable to be included in the list;

(c) that having contacted referees, the Health Authority is not satisfied with the references given in accordance with paragraph 18 of that Part;

- (d) that having checked with the National Health Service Counter Fraud Service for any facts that it considers relevant relating to past or current investigations into a fraud case, involving the doctor, and any fraud case involving the doctor, the Health authority considers these justify such refusal;
 - (e) that there are any grounds for the Health Authority to consider that admitting the doctor to the list would be prejudicial to the efficiency of the service which the doctor would undertake;
- (2) The grounds on which a Health Authority must refuse to approve or nominate an additional doctor are—
- (a) where the doctor has been convicted in the United Kingdom of murder;
 - (b) where, after 30th July 2002, the doctor has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of over six months;
 - (c) where the doctor has been the subject of a national disqualification;
 - (d) where the doctor has not updated his or her application in accordance with regulation 18EF(4);
 - (e) where the doctor does not notify the Health Authority under regulation 18M(11) that the doctor wishes to be included in the list subject to the specified conditions.
- (3) Where the Health Authority is considering refusal of a doctor under paragraph (1), it shall consider all facts which appear to it to be relevant and shall in particular take into consideration in relation to paragraph (1)(a), (b), or (d) above—
- (a) the nature of any offence, investigation or incident;
 - (b) the length of time since such offence or incident was committed and since any conviction or investigation;
 - (c) whether there are other offences, incidents or investigations to be considered;
 - (d) any action or penalty imposed by any licensing, regulatory or other body, the police or the courts as a result of the offence, incident or investigation;
 - (e) the relevance of any offence, investigation or incident to the provision by him of general medical services and any likely risk to his patients or to public finances;
 - (f) whether any offence was a sexual offence to which Part I of the Sexual Offences Act 1997(8) applies; and
 - (g) whether the doctor has been refused admission to or conditionally included in, removed, contingently removed, or suspended from any of a Health Authority's lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action; and
 - (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included, removed or contingently removed from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;
 - (i) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the

suspension and the reasons given by the Health Authority or equivalent body for the suspension.

(4) When the Health Authority takes into consideration the matters set out in paragraph (3), it shall consider the overall effect of all the matters being considered.

(5) When refusing to nominate or approve an additional doctor, the Health Authority shall notify the doctor of its decision and the reasons for it (including any facts relied upon) and of any right of appeal under regulation 18GG against the Health Authority's decision.

Deferment of Decision

18EF.—(1) A Health Authority may defer a decision whether to approve an additional doctor under regulation 18A or 18B, or nominate the doctor under regulation 18C, or approve a replacement doctor under regulation 18I—

- (a) where there are legal proceedings that are criminal proceedings in the United Kingdom, or where there are legal proceedings in respect of conduct which, if it had occurred in the United Kingdom would constitute a criminal offence, and that if successful would be likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;
- (b) where there are legal proceedings that are criminal proceedings in the United Kingdom against a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, or where there are legal proceedings in respect of conduct which, if it had occurred in the United Kingdom would constitute a criminal offence, and that if successful would be likely to lead to the removal of the doctor from Health Authority list if the doctor had been included;
- (c) where there is an investigation anywhere in the world by the doctor's regulatory or licensing body or any other investigation (including one by another Health Authority) relating to the doctor in the doctor's professional capacity that if adverse would be likely to lead to the removal of the doctor from the Health Authority list if the doctor were to be included;
- (d) where the doctor is suspended from any of the lists or equivalent lists;
- (e) where a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, is suspended from any of the lists or equivalent lists;
- (f) where the FHSAA is considering an appeal by the doctor against a decision of a Health Authority to refuse to approve or nominate or admit a doctor to its list, or to conditionally include in or to contingently remove from, or to remove from any list kept by a Health Authority and if that appeal is unsuccessful the Health Authority would be likely to remove the doctor from the Health Authority list if the doctor had been included;
- (g) where the FHSAA is considering an appeal by a body corporate of which the doctor is, had in the preceding six months been, or was at the time of the originating events a director, against a decision of a Health Authority to refuse to approve, nominate or admit the body corporate to its list, or to conditionally include in or to contingently remove from, or to remove from any list kept by a Health Authority and if that appeal is unsuccessful the Health Authority would be likely to remove the doctor from the Health Authority list if the doctor had been included;
- (h) where the doctor is being investigated by the National Health Service Counter Fraud Services in relation to any fraud case, where the result if adverse would be

likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;

- (i) where a body corporate of which the doctor is, has been in the preceding six months been, or was at the time of the originating events a director, is being investigated by the National Health Service Counter Fraud Service in relation to any fraud case, where the result if adverse would be likely to lead to the removal of the doctor from the Health Authority list if the doctor were to be included;
- (j) where the FHSAA is considering an application from a Health Authority for a national disqualification of the doctor;
- (k) where the FHSAA is considering an application from a Health Authority for a national disqualification of the doctor or a body corporate of which the doctor is, has been in the preceding six months been, or was at the time of the originating events a director.

(2) A Health Authority may only defer consideration under paragraph (1) above until the outcome of the relevant event mentioned in sub-paragraph (a), (b), (c), (f), (g), (h), (i), (j) or (k) is known or whilst the doctor or body corporate is suspended under sub-paragraph (d) or (e).

(3) A Health Authority must notify the doctor of a decision to defer a decision of an application and the reasons for this.

(4) Once the outcome of the relevant event mentioned in sub-paragraphs (a), (b), (c), (f), (g), (h), (i), (j) or (k) of paragraph (1) is known or the suspension referred to in sub-paragraph (d) or (e) comes to an end, the Health Authority shall notify the doctor in writing that the doctor must—

- (a) update his or her application within 28 days of the date of the notification (or such longer period as the Health Authority may agree);
- (b) confirm in writing within the period mentioned in sub-paragraph (a) that the doctor wishes to proceed with the application.

(5) Provided any additional information has been received within the 28 days the time agreed, the Health Authority shall notify the doctor as soon as possible—

- (a) that the doctor's application to be approved or nominated has been successful; or
- (b) that the Health Authority has decided to refuse the application or impose conditions on the doctor's inclusion, and the reasons for it (including any facts relied upon), and of any right of appeal under regulation 18GG or 18M(8)."

Diwygio rheoliad 18F

8. Yn rheoliad 18F (cynnwys ar restr feddygol)

- (a) ym mharagraff (1) hepgorwch "(and, where applicable any other Authority referred to in paragraph (2))";
- (b) hepgorwch baragraff (2); ac
- (c) ar ôl paragraff (3) ychwanegwch

"(4) Where the Health Authority nominates or approves a doctor or replacement doctor pursuant to regulation 18A, 18B, 18C or 18I, but subject to conditions imposed under regulations made under section 43ZA of the Act, the name of the doctor may be included on the medical list during the period for bringing the appeal to the FHSAA pursuant to regulation 18GG, or if an appeal is brought, until such time as that appeal has been decided, provided the doctor agrees to be bound by the condition imposed until the time for appeal has expired or the appeal is decided."

Diwygio Rheoliad 18G

9. Yn Rheoliad 18G, ym mharagraf (1)(a) ar gyfer “has refused to approve pursuant to regulation 18E(2)(a)” rhwch yn ei le “has refused to approve pursuant to regulation 18E(1)(b) or (2)(a)”.

Mewnosod rheoliad 18GG newydd.

10. Ar ôl Rheoliad 18G (apelio i'r Ysgrifennydd Gwladol) mewnosodwch—

“Appeal to the FHSAA

18GG.—(1) A doctor may appeal to the FHSAA against a decision of a Health Authority to refuse to approve or nominate him pursuant to regulation 18EE(1) or 18I(6)(b)(iii) within 28 days of the decision.

(2) Such appeal shall be by way of redetermination.”.

Diwygio rheoliad 18I

11. Yn rheoliad 18I (y weithdrefn mewn achosion pan fo rheoliad 18H yn gymwys)—

(a) ym mharagraff (6)—

(i) ar ddiwedd is-baragraff (a)(iv) hepgorwch “and” ac ychwanegwch—

“(v) where there are grounds for refusal under regulation 18EE(2), and”;

(ii) ar ddiwedd is-baragraff (i) hepgorwch “or”;

(iii) ar ôl is-baragraff (b)(ii) ychwanegwch—

“, or

(iii) where there are grounds for refusal under regulation 18EE(1) having taken into consideration the matters set out in regulation 18EE(3) and (4).”;

(b) ym mharagraff (7) hepgorwch “(and, where applicable, any other Authority referred to in regulation 18H(3))”;

(c) ar ôl paragraff (7) mewnosodwch—

(7A) The Health Authority may determine in accordance with regulation 18M that the person be subject to conditions on his inclusion;

(ch) ym mharagraff (8)(a) ar gyfer “pursuant to paragraph (6)(a)(i),(iii), or (iv) or (b)(ii)” rhwch yn ei le “pursuant to paragraph (6)(a)(i),(iii), (iv) or (v) or (b)(ii)”;

(d) ar ôl paragraff (8) mewnosodwch—

“(8A) Where a Health Authority refuses to approve a replacement doctor pursuant to paragraph (6)(b)(iii)—

(a) the Health Authority shall so notify the doctor in accordance with regulation 18EE(5), and

(b) the doctor may appeal to the FHSAA in accordance with regulation 18GG.”.

Diwygio rheoliad 18J

12. Yn rheoliad 18J (swyddi gwag ar draws y ffin),—

(a) ym mharagraff (8), hepgorwch “and” ar ddiwedd is-baragraff (a);

(b) ar ôl is-baragraff (b) o baragraff (8) ychwanegwch—

“(c) there being no grounds for refusal under regulation 18EE(1) and (2);

- (d) the right to defer consideration of its decision in regulation 18EF(1); and
- (e) the Health Authority being able to impose conditions under section 18M.”.

Mewnosod rheoliad 18M newydd

13.—(1) Ar ôl rheoliad 18L (darpariaethau trosiannol) mewnosodwch—

“Conditional Inclusion

18M.—(1) A Health Authority may determine that if a doctor is to be included in the list, the doctor is to be subject, while the doctor remains included in the list, to the imposition of conditions, having regard to the requirements in section 43ZA(2) of the Act.

(2) The Health Authority may vary the terms of service as provided for in Schedule 2 to these Regulations in relation to the applicant for the purpose of, or in connection with, the imposition of any conditions.

(3) The Health Authority may of its own volition or at the request of the doctor concerned review any decision made under this regulation.

(4) A doctor may not request a review of a Health Authority decision until the expiry of a three month period beginning with the date the Health Authority includes the doctor’s name on the list.

(5) After a review has taken place, the doctor cannot request another review before the expiry of six months from the date of the decision on the previous review.

(6) On such a review, the Health Authority may vary the conditions, impose different conditions or remove the doctor from the list.

(7) Failure to comply with a condition may lead to removal of the doctor from the list.

(8) There shall be an appeal to the FHSAA from any decision of the Health Authority—

- (a) to impose conditions, or any particular condition on a doctor;
- (b) to vary a condition;
- (c) to vary the doctor’s terms of service;
- (d) on any review of an earlier such decision of the Health Authority;
- (e) to remove the doctor from the medical list for breach of condition,

and the appeal shall be by way of redetermination of the Health Authority’s decision.

(9) On appeal the FHSAA may make any decision which the Health Authority could have made.

(10) Where the decision of the FHSAA on appeal is that conditions be imposed the doctor, whether or not those conditions are identical with the conditions imposed by the Health Authority, the Health Authority shall ask the doctor to notify it within 28 days of the decision (or such longer period as the Health Authority may agree), whether the doctor wishes to be included on the medical list subject to these conditions.

(11) If the doctor notifies the Health Authority that the doctor wishes to be included in the medical list subject to the conditions, the Health Authority shall so include the doctor.

(12) Subject to regulation 18F(4), any decision of the Health Authority that may be the subject of an appeal under paragraph (8), shall not have effect until the FHSAA has determined any appeal against it or any time for appeal has expired.

(13) A Health Authority shall disclose to the persons or bodies specified in paragraph (15) below, information of the kind mentioned in paragraph (14) about doctors whose inclusion in

the list is subject to conditions imposed under this regulation and about the removal of such persons from the list for breach of such a condition.

- (14) The information referred to in paragraph (13) is—
- (a) identifying details of the doctor;
 - (b) professional registration number;
 - (c) date and copy of the decision of the Health Authority;
 - (d) the contact name of a person in the Health authority for further enquires.
- (15) Persons or bodies to whom information shall be disclosed under paragraph (13) are—
- (a) the National Assembly for Wales;
 - (b) any Health Authority in Wales that has the doctor on any of its lists, or a body corporate of which the doctor is a director, or any Health Authority in Wales that is considering an application for inclusion in any of its lists from such a doctor or body corporate;
 - (c) the Secretary of State;
 - (d) the Northern Ireland Executive;
 - (e) the Scottish Executive;
 - (f) the General Medical Council or any other appropriate regulatory body;
 - (g) the local medical committee for its area;
 - (h) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the doctor in a professional capacity;
 - (i) where it is a fraud case, the National Health Service Counter Fraud Service.
- (16) The Health Authority shall notify any persons or bodies of the information specified in paragraph (14) if it can establish that it is considering employing the doctor in a professional capacity and if it receives a written request (including an electronic request) to do so.
- (17) The Health Authority shall send to the doctor concerned a copy of any information about the doctor provided to the persons or bodies listed in paragraphs (15) and (16), and any correspondence with those persons or bodies.
- (18) Where the Health Authority has notified any of the persons or bodies mentioned in paragraph (15) or (16) of the matters set out in paragraph (14), it may in addition notify those persons or bodies of any evidence that was considered, including representations of the doctor if so requested.
- (19) Where a Health Authority is notified by the FHSAA that it has imposed a national disqualification on a doctor whom the Health Authority has removed from its medical list, it shall notify the persons or bodies listed in paragraph (15)(b),(g),(h) and (i) and paragraph (16).
- (20) Where a decision is changed on review or appeal, or a suspension lapses, the Health Authority shall notify any person or body that was notified of the original decision of the later decision.”.

Diwygio rheoliad 25

- 14.** Yn rheoliad 25 (darparu gwasanaethau dros dro)—
- (a) Ym mharagraff (2)—
 - (i) Ar ôl “suspended as mentioned in section 29(8) of the Act” mewnosodwch “, neu adran 41A o Ddeddf Meddygol 1983”;
 - (ii) Yn lle “suspended by direction of the Tribunal” rhowch “suspended”;

- (b) ar gyfer paragraff (6A) rhowch yn ei le—
- “(6A) No doctor may be appointed under paragraph (2) or (6) unless he is—
- (a) suitably experienced (other than by virtue of being a restricted services principal) within the meaning of section 31 of the Act; and
 - (b) included by a Health Authority in a medical list or a medical supplementary list prepared in accordance with section 43D of the Act or is named as a performer of personal medical services in a pilot scheme.”.

(c) ym mharagraff (13), ar ôl “to undertake” ychwanegwch “, but not by any variation imposed on that doctor by the Health authority under sections 43ZA or 49G of the Act”;

(d) ym mharagraff 14A, yn lle “suspended by direction of the Tribunal” rhowch “suspended”;

(e) ym mharagraff (14B), yn lle “suspension by direction of the Tribunal” rhowch “suspension”;

(f) ym mharagraff (15), yn lle is-baragraff (a)(ii) rhowch yn ei le—

“(ii) consequent upon the suspension of whose registration as mentioned in section 29(8) of the Act arrangements are made under paragraph (2)(a),”.

Diwygio rheoliad 34A

15. Yn lle rheoliad 34A (taliadau i feddygon sydd wedi'u hatal) rhowch yn ei le—

“**34A.**—(1) A Health Authority shall make payments to any doctor who is suspended in accordance with the National Assembly’s determination in relation to such payments.

(2) The National Assembly shall make the determination in accordance with paragraph (3) after consultation with the organisations referred to in regulation 34(1) and it shall be published in the Statement referred to in regulation 34(1).

(3) The determination may be amended from time to time by the National Assembly after consultation with the organisations referred to in regulation 34(1), and any amendments shall be published with the Statement referred to in regulation 34(1).

(4) Subject to paragraphs (5) and (6), the National Assembly’s determination shall be such as to secure that, as far as reasonably practicable, the suspended doctor receives all the payments which would have been due to the doctor pursuant to regulation 34 had the doctor provided such medical services to the doctor’s patients during the period of the doctor’s suspension as are actually provided by the doctor who becomes responsible for them during that period by virtue of regulation 25(2)(a).

(5) To the extent that such payments consist of the reimbursement of expenses for which the doctor must submit a claim, the suspended doctor shall receive reimbursement only in respect of those expenses which the doctor continues to incur during the period of the doctor’s suspension.

(6) The determination shall provide for a deduction to take account of any payments which the suspended doctor receives—

- (a) for providing general medical services as an assistant or deputy;
- (b) for performing personal medical services in connection with a pilot scheme;
- (c) for providing services under Part 1 of the Act.

Diwygio Atodlen 2

16.—(1) Caiff Atodlen 2 (amodau gwasanaeth) ei diwygio yn unol â'r darpariaethau canlynol.

(2) Ym mharagraff 18A(trefniadau y tu allan i oriau) yn lle is-baragraff (7)(h)(i) rhowch—

“(i) he has been notified that he is the subject of proceedings by any Health Authority that may lead to his removal from any list held by that Health Authority, or his contingent removal, or that he is subject to conditions imposed on him by a Health Authority under section 43ZA.”.

(3) Ar ôl paragraff 22(2)(a)(iv) (sefydliadau sy'n darparu dirprwy feddygon) mewnosodwch—

“(v) after 31st December 2002 is on a medical list supplementary list, medical list or is named as a performer of personal medical services in a pilot scheme; and”.

(4) Ym mharagraff 23 (cynorthwywyr a dirprwyon) hepgorwch “or” ar ddiwedd is-baragraff (b), ac ar ddiwedd is-baragraff (c) mewnosodwch—

“(d) who has been convicted in the United Kingdom of murder;

(e) who has been convicted in the United Kingdom of a criminal offence after 30th July 2002 and sentenced to a term of imprisonment of over six months;

(f) who is suspended under section 41A of the Medical Act ; or

(g) who is suspended from any Health Authority medical, services or supplementary list.”.

(5) Ar ôl paragraff 23 (cynorthwywyr a dirprwyon), ychwanegwch—

“**23A.**—(1) After 31st July 2002 a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless that doctor is on a medical supplementary list or medical list or is named in an agreement under section 2 of the 1997 Act as a performer of personal medical services, or has an outstanding application with a Health Authority under these Regulations, submitted to that Health authority before 30th October 2002.

(2) After 31st October 2002 a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless that doctor is on a medical supplementary list or medical list or is named in an agreement under section 2 of the 1997 Act as a performer of personal medical services.

(3) After 31st December 2002, subject to sub-paragraphs (4) and (5), a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless—

(a) the deputy or assistant has provided two clinical references, relating to two recent posts (which may include any current post) as a doctor which lasted for at least three months without a significant break, or where this is not possible, a full explanation and alternative referees; and

(b) the engaging or employing doctor has checked and is satisfied with the doctor's references.

(4) Where a doctor is urgently needed as a deputy, and it is not possible to obtain and check the references in accordance with paragraph (3)(b) before engaging the doctor, the doctor may be engaged on a temporary basis for a single period of up to 14 days whilst the doctor's references are checked and considered, and for an additional single period of a further 7 days if the doctor believes that the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(5) Where a doctor uses the same doctor as a deputy on more than one occasion within a period of three months, the engaging doctor may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.”.

(6) After paragraph 36 (records) insert—

“Information to be supplied

36A.—(1) A doctor shall by 31st October 2002 supply in writing information to the Health Authority as to whether the doctor—

- (a) has any criminal convictions in the United Kingdom;
- (b) has been bound over 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 England and Wales, 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; or
- (f) has been subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world and the outcome was adverse;
- (g) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world;
- (h) is, to his or her 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 any 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, subject to an investigation into his or her 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, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.

(2) If the doctor is, has in the preceding six months been, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, the doctor shall in addition the by 31st October 2002 supply in writing information to the Health Authority as to whether the body corporate—

- (a) has any criminal convictions in the United Kingdom ;
- (b) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (c) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
- (d) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;

- (e) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body any where in the world;
 - (f) 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 Services in relation to any fraud case;
 - (g) 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;
 - (h) 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 the name and registered office of the body corporate, and details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.

(3) The doctor shall consent to a request being made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraph (1) or (2).

(4) A doctor shall inform the Health Authority within 7 days of its occurrence if the doctor—

- (a) is convicted of any criminal offence in the United Kingdom;
- (b) is bound over to keep the peace in the United Kingdom;
- (c) accepts a police caution in the United Kingdom;
- (d) is convicted elsewhere of an offence, or what would constitute an offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (e) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales, would constitute an offence;
- (f) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into the doctor's professional conduct, and there is a finding against the doctor;
- (g) becomes the subject of any investigation into his or her professional conduct by any licensing, regulatory or other body;
- (h) becomes subject to an investigation into his or her professional conduct in respect of any current or previous employment, or is notified of the outcome of any such investigation where it is adverse;
- (i) becomes to the doctor's knowledge the subject of any investigation by the National Health Service Counter Fraud Service in relation to any fraud case;
- (j) becomes 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;
- (k) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body,

and if so, give details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and its outcome.

(5) A doctor who is, has in the preceding six months been, or was to the doctor's knowledge at the time of any originating events a director of a body corporate, shall in addition inform the Health Authority within 7 days if the body corporate—

- (a) is convicted of any criminal offence in the United Kingdom;
- (b) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (c) is charged in the United Kingdom with a criminal offence, or is charged elsewhere in the world with an offence which, if committed in England and Wales, would constitute a criminal offence;
- (d) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into its provision of professional services, and there is a finding against the body corporate;
- (e) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
- (f) becomes to the doctor's knowledge the subject of any investigation by the National Health Service Counter Fraud Service in relation to any fraud case or is notified of the outcome of such an investigation where it is adverse;
- (g) becomes the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
- (h) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body,

and if so, give the name and registered office of the body corporate and details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.

(6) Where paragraphs (5) or (6) apply, the doctor shall consent to a request being made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraph (4) or (5).

Application to other lists

36B A doctor shall inform the Health Authority—

- (a) if the doctor, or a body corporate of which the doctor is a director, applies to be included in any list by another Health Authority or equivalent body, and of the outcome of any such application; and
- (b) if the doctor becomes a director of a body corporate that is included in any list held by a Health authority, or has applied to be included in such a list, and the outcome of any such application.”.

(7) After paragraph 50 (annual reports) insert—

“NCAA Assessment

50A A doctor shall co-operate with an assessment by the NCAA when requested to do so by the Health Authority.

Appraisal Scheme

50B A doctor shall participate in the appraisal scheme provided by the Health Authority.”.

Diwygio Atodlen 3

17. Yn Rhan I o Atodlen 3 (gwybodaeth sydd i'w chynnwys mewn adroddiad gan Awdurdod Iechyd wrth wneud cyfeiriad i'r Pwyllgor Arferion Meddygol), ym mharagraff 8 hepgorwch y geiriau “including details of the declaration made under paragraph 6A of Part III of this Schedule.”.

18. Yn Rhan III o Atodlen 3 (gwybodaeth ac ymgymeriadau i'w rhoi gan feddygon mewn cysylltiad â chais am enwebiad neu gymeradwyaeth am swydd mewn practis)—

(a) yn lle paragraff 6A rhowch—

(a) Information on whether the doctor—

- (i) he has any criminal convictions in the United Kingdom;
- (ii) has been bound over to keep the peace in the United Kingdom;
- (iii) he has accepted a police caution in the United Kingdom;
- (iv) he has been convicted elsewhere of an offence, or what if committed in England and Wales, would constitute a criminal offence or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (v) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority; or
- (vi) has been subject to any investigation in relation to his or her professional conduct by any licensing, regulatory or other body anywhere in the world where the outcome was adverse;
- (vii) has been subject to an investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world;
- (viii) is to the doctor's knowledge, or has been where the outcome was adverse, the subject to any investigation by National Health Service Counter Fraud Service in relation to any fraud case;
- (ix) 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;
- (x) 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,

and if so, give details, including approximate dates, of where the investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.”;

- (b) Where the doctor is, has in the preceding six months been, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, the doctor shall in addition supply in writing information to the Health Authority as to whether the body corporate—
- (i) has any criminal convictions in the United Kingdom;
 - (ii) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
 - (iii) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
 - (iv) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
 - (v) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
 - (vi) 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 any fraud case;
 - (vii) is the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
 - (viii) 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 the name and registered office of the body corporate, and details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.”;
- (c) in paragraph 15—
- (i) after “starting and finishing dates of each appointment” insert “, with an explanation of any gaps between appointments.”;
 - (ii) after sub-paragraph (d) insert a new sub-paragraph—
 - “(e) an explanation of why he was dismissed from any post.”;
- (d) at the end of paragraph 18, add “, who are willing to provide clinical references for the last two recent posts, (which may include any current post) as a doctor which lasted for at least three full months without a significant break, and where this is not possible, a full explanation and alternative referees .”;
- (e) for paragraph 19 substitute—
- “**19** If the applicant is not in the Health Authority's medical list, the name of any Health Authority in whose dental, optical, pharmaceutical, supplementary or services list the doctor is included, or from any of those lists or equivalent lists the doctor has been removed or contingently removed or is currently suspended, or from any of whose lists or equivalent lists the doctor has been refused admission or conditionally included, with an explanation as to why, and particulars of any outstanding application (including deferred applications), for inclusion in the medical list, or any other list of a Health Authority, with the name of the Health Authority in question.”;
- (f) ar ôl paragraff 19 mewnosodwch—

“**19A** 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 of the Health authority in question, and the name and registered office of any such body corporate.”;—

(ff) yn lle paragraff 25 rhowch—

“**25.** An undertaking to—

- (a) be bound by the terms of service;
- (b) notify the Health Authority within 7 days of any material changes to the information provided in the application until the application is finally determined;
- (c) supply the information required by paragraph 36 of Schedule 2.”;

(g) ar ôl paragraff 25 ychwanegwch—

“**26.** Consent to a request being made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the united Kingdom or elsewhere, for information relating to a current investigation or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraph (6A).”.

Arbedion

19.—(1) Ac eithrio'r diwygiadau a wnaed i'r prif Reoliadau gan ddarpariaethau'r rheoliadau a restrwyd ym mharagraff (2) (“y diwygiadau rhestredig”), pan trwy rinwedd rheoliad 6(3) o Reoliadau Diddymu'r Tribwinlys bod achos yn parhau ger bron y Tribwinlys ar ôl 31 Gorffennaf 2002, ni fydd y diwygiadau a restrir yn gymwys i feddyg mewn perthynas â'i achos hyd nes y bydd yr achos wedi dirwyn i ben a bod yr amser ar gyfer gwneud apêl wedi dod i ben, neu bod unrhyw apêl wedi'i dynnu'n ôl, neu bod y meddyg wedi disbyddu'i hawl i apelio, fel y digwydd.

(2) At ddibenion paragraff (1) y diwygiadau rhestredig a restrir yw'r rhai a wnaed gan—

- (a) rheoliad 2(1)(c);
- (b) rheoliad 4(c);
- (c) rheoliad 3;
- (ch) rheoliad 15(a)(ii), (d) ac (e);
- (d) rheoliad 16.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(9)

18 Gorffennaf 2002

John Marek
Dirprwy Lywydd Cynulliad Cenedlaethol Cymru

YR ATODLEN

Rheoliad 2(2)

Amnewid Cyfeiriadau Awdurdod Iechyd

Yn Rheoliad 2(1) (dehongli), y diffiniadau “group practice”, “local directory”, “locality” a “medical card”.

Rheoliad 3 (cwmpas ac amodau gwasanaeth).

Rheoliad 4 (rhestrau meddygol).

Rheoliad 6 (diwygio neu dynnu oddi ar y rhestr feddygol).

Rheoliad 7 (tynnu oddi ar y rhestr feddygol).

Rheoliad 8 (cyfarwyddiadur lleol).

Rheoliad 9 (diwygio cyfarwyddiadur lleol).

Rheoliad 19 (rhestrau meddygon).

Rheoliad 22 (newid meddyg).

Rheoliad 23 (tynnu oddi ar rhestr meddyg).

Rheoliad 24 (cyfyngiad ar y nifer ar restrau meddyg).

Rheoliad 25 (darparu gwasanaethau dros dro).

Rheoliad 27 (rhestr gwylidraeth iechyd).

Rheoliad 28 (derbyn gwasanaethau gwylidwraeth iechyd plant).

Rheoliad 30 (rhestr obstetrig).

Rheoliad 31 (cael gafael ar wasanaethau meddygol mamolaeth).

Rheoliad 32 (rhestr mân lawfeddygaeth).

Rheoliad 33 (derbyn gwasanaethau mân lawfeddygaeth).

Rheoliad 34 (taliadau).

Rheoliad 35 (hawliadau a gordaliadau).

Rheoliad 36 (penderfynu ar gwestiynau).

Rheoliad 37 (cyhoeddi manylion).

Rheoliad 38 (penodi cynghorydd meddygol).

Rheoliad 39 (cyfarwyddyd i feddygon).

Rheoliad 40 (ardystio nad yw'r gweithrediad yn cynnwys ewyllys da).

Yn Atodlen 2 (amodau gwasanaeth)—

Paragraffau 1, 4, 5, 6, 9, 9A, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 23, 24, 27, 28, 29, 29A, 30, 31, 32, 33, 34, 35, 36, 38, 39, 41, 43, 47, 49, 50 a 51.

Yn Atodlen 3, Rhan VII (gwybodaeth i'w chyflenwi gan yr FHSA mewn cysylltiad â rhestrau meddyg), y pennawd.

Yn Atodlen 4 (gwasanaethau gwylidwraeth iechyd plant), paragraff 1.

Yn Atodlen 5, Rhan 1 (meini prawf i'w hystyried cyn cynnwys yn y rhestr obstetrig), paragraffau 3 a 5.

Yn Atodlen 12 (gwybodaeth i'w chynnwys ar daflenni practisiau), paragraff 5.

Yn Atodlen 13 (gwybodaeth i'w chynnwys mewn adroddiadau blynyddol), paragraff 1.

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EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

Mae'r Rheoliadau hyn yn diwygio ymhellach Reoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Meddygol Cyffredinol) 1992 (“y prif Reoliadau”), sy'n rheoleiddio'r amodau y mae meddygon yn darparu gwasanaethau meddygol cyffredinol o dan Ddeddf y Gwasanaeth Iechyd Gwladol 1977 (“Deddf 1977”) er mwyn gweithredu rhai darpariaethau penodol o Ddeddf Iechyd a Gofal Cymdeithasol 2001.

Mae rheoliad 2 yn ychwanegu rhai diffiniadau ychwanegol at reoliad 2 y prif Reoliadau.

Mae rheoliad 3 yn diwygio rheoliad 6 o'r prif Reoliadau er mwyn rhwystro meddyg rhag tynnu ei enw oddi ar y rhestrau meddygol, heb ganiatâd Cynulliad Cenedlaethol Cymru, pan fo'r Awdurdod Iechyd yn ymchwilio i weld p'un a oes rhesymau dros dynnu neu atal dros dro feddyg o'r rhestr feddygol, neu p'un a ydyw'r meddyg wedi methu â chydymffurfio ag amod a osodwyd ar gynnwys y meddyg fel bod modd cyfiawnhau tynnu'r meddyg oddi ar y rhestr.

Mae rheoliad 4 yn diwygio rheoliad 7 o'r prif Reoliadau fel nad yw'n orfodol i dynnu enw unrhyw feddyg a geir yn euog o lofruddiaeth neu dramgwydd droseddol ac sydd wedi'i ddeddfydu am 6 mis. Mae'r rhesymau hyn yn cael eu symud i reoliad 7C newydd o'r prif Reoliadau, gyda'r newid bod raid i'r ddeddfyd bellach fod yn ddeddfyd o dros 6 mis, a rhestrir rhesymau eraill. Gwneir mân newidiadau eraill i reoliad 7.

Mae rheoliad 5 yn mewnosod rheoliadau 7A i 7H newydd sy'n rhoi effaith i bwerau sydd wedi'u rhoi yn adrannau 49F i 49R o Ddeddf 1977 (a fewnosodwyd gan adran 25 o Ddeddf Iechyd a Gofal Cymdeithasol 2001)—

Mae rheoliad 7A yn ymestyn y diffiniad o “*health scheme*” yn adran 49(8) o Ddeddf 1977;

Mae rheoliad 7B yn pennu'r meini prawf y mae'n rhaid i'r Awdurdod Iechyd eu hystyried pan fo'n arfer ei bwerau dewisol i dynnu enw o dan adran 49F o Ddeddf 1977;

Mae rheoliad 7C yn pennu'r rhesymau sy'n galluogi Awdurdod Iechyd i dynnu'n orfodol enw meddyg oddi ar y rhestr feddygol;

Mae rheoliad 7D yn gwneud darpariaethau i Awdurdod Iechyd hysbysu personau am wybodaeth benodol sy'n gysylltiedig â phenderfyniadau i dynnu neu atal dros dro feddyg oddi ar y rhestr feddygol;

Mae rheoliad 7E yn darparu'r gweithdrefnau y mae angen i Awdurdodau Iechyd eu dilyn wrth dynnu meddyg oddi ar y rhestr feddygol;

Mae rheoliad 7F yn darparu'r weithdrefn sydd i'w dilyn gan Awdurdodau Iechyd wrth atal dros dro feddyg o'r rhestr feddygol;

Mae rheoliad 7G yn darparu'r weithdrefn sydd i'w dilyn gan Awdurdodau Iechyd pan fo'r Awdurdod Iechyd yn penderfynu adolygu penderfyniad i gynnwys yn amodol, tynnu'n amodol, neu atal dros dro feddyg o'r rhestr feddygol;

Mae rheoliad 7H yn diwygio'r cyfnod statudol ar gyfer adolygu a bennir yn adran 49N o Ddeddf 1977 mewn amgylchiadau penodol.

Mae rheoliad 6 yn diwygio rheoliad 18E y prif Reoliadau er mwyn cyflwyno meini prawf ychwanegol ar gyfer cymeradwyo ac enwebu meddygon i'r rhestrau meddygol.

Mae rheoliad 7 yn ychwanegu rheoliadau 18EE ac 18EF newydd at y prif Reoliadau. Mae rheoliad 18EE yn pennu'r rhesymau y gall neu y mae'n rhaid i Awdurdod Iechyd wrthod cymeradwyo neu

enwebu meddyg i'r rhestrau meddygol, a'r meini prawf y mae'n rhaid i'r Awdurdod Iechyd eu parchu. Mae rheoliad 18EF yn pennu'r amgylchiadau pan y gall Awdurdod Iechyd ohirio penderfyniad ar gais i gymeradwyo neu enwebu meddyg yn y rhestr feddygol, a'r weithdrefn sydd i'w dilyn.

Mae rheoliad 8 yn gwneud mân ddiwygiadau i reoliad 18F y prif Reoliadau, ac yn galluogi Awdurdod Iechyd i roi enw meddyg ar y rhestr yn ddarostyngedig i amodau, gyda chaniatâd y meddyg, hyd nes y bydd unrhyw apêl wedi'i benderfynu.

Mae rheoliad 9 yn diwygio rheoliad 18G y prif Reoliadau fel bod modd apelio i'r Cynulliad Cenedlaethol ar bwynt cyfreithiol mewn perthynas â phenderfyniadau a wneir ynghylch hyfedredd ieithyddol meddyg.

Mae rheoliad 10 yn ychwanegu rheoliad 18GG newydd i'r prif Reoliadau fel bod modd apelio i'r FHSAA yn erbyn penderfyniad gan Awdurdod Iechyd i wrthod cymeradwyo neu enwebu meddyg.

Mae rheoliadau 11 a 12 yn gwneud mân newidiadau i reoliadau 18I a 18J y prif Reoliadau.

Mae rheoliad 13 yn mewnosod rheoliad 18M newydd yn y prif Reoliadau. Mae hyn yn gwneud darpariaeth i Awdurdod Iechyd osod amodau pan fo'n cynnwys meddyg yn y rhestr feddygol. Gall yr Awdurdod Iechyd adolygu amodau o'r fath a gellir apelio i'r FHSAA. Gall yr Awdurdod Iechyd dynnu enw meddyg am doramod.

Mae rheoliad 14 yn diwygio rheoliad 25 y prif Reoliadau er mwyn galluogi Awdurdod Iechyd i benodi meddyg dros dro i ofalu am gleifion meddyg a gafodd ei atal dros dro gan yr Awdurdod Iechyd.

Mae rheoliad 15 yn amnewid rheoliad 34A newydd yn y prif Reoliadau am fod y pŵer yr oedd yn ddibynnol arno, sef adran 49E o Ddeddf 1977, wedi cael ei diddymu gan Ddeddf Iechyd a Gofal Cymdeithasol 2001, Atodlen 5, paragraff 5. Gwneir darpariaethau newydd ar gyfer talu ymarferwyr sydd wedi'u hatal dros dro o dan y pwerau newydd a fewnosodwyd gan Ddeddf Iechyd a Gofal Cymdeithasol 2001.

Mae rheoliad 16 yn diwygio Atodlen 2 i'r prif Reoliadau (amodau gwasanaeth yr Ymarferwyr Cyffredinol).

Gwneir mân ddiwygiad canlyniadol i baragraff 18A (trefniadau y tu allan i oriau).

Caiff paragraff 22 ei ddiwygio er mwyn ei gwneud hi'n ofynnol i sefydliadau sy'n darparu dirprwy feddygon i ddefnyddio meddygon sy'n cael eu cynnwys yn y rhestr atodol neu'r rhestr feddygol yn unig, neu sy'n cael eu henwi fel rhai sy'n cyflawni gwasanaethau meddygol personol fel cynllun peilot.

Mae paragraff 23A yn gosod rhai gofynion penodol pellach ar feddygon sy'n cyflogi cynorthwywyr neu ddirprwyon.

Ychwanegir gofyniad newydd ym mharagraff 36A i'w gwneud hi'n ofynnol i Ymarferwyr Cyffredinol hysbysu'r Awdurdod Iechyd yn ysgrifenedig ynghylch a oes gan y meddyg, neu gwmni y mae'r meddyg yn gyfarwyddwr ohono, unrhyw euogfarnau troseddol neu faterion eraill a nodir erbyn 31 Hydref 2002, ac i adrodd ynghylch unrhyw ddigwyddiadau dilynol o'r natur hwn o fewn 7 diwrnod.

Mae paragraff 36B yn ei gwneud hi'n ofynnol i feddyg ar restr feddygol Awdurdod Iechyd hysbysu'r Awdurdod Iechyd os yw'r meddyg, neu gwmni y mae'r meddyg yn gyfarwyddwr ohono, yn gwneud cais i ymuno â rhestr arall, neu os yw'r meddyg yn dod yn gyfarwyddwr cwmni sy'n cael ei gynnwys felly, neu sy'n gwneud cais i gael ei gynnwys.

Mae paragraff 50A newydd yn ei gwneud hi'n ofynnol i feddyg gydweithredu ag asesiad gan yr Awdurdod Asesu Clinigol Cenedlaethol Newydd.

Mae rheoliadau 17 a 18 yn gwneud mân ddiwygiadau i Rannau 1 (gwybodaeth sydd i'w chynnwys mewn adroddiad gan Awdurdod Iechyd wrth wneud cyfeiriad at y Pwyllgor Arferion Meddygol) a 111 (gwybodaeth ac ymgymeriadau i'w rhoi gan ymarferydd mewn cysylltiad â chais ar gyfer enwebu neu gymeradwyo lle gwag mewn practis) o Atodlen 3 i'r prif reoliadau, ac yn darparu ar

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gyfer darparu mwy o wybodaeth gan y meddyg. Mae'r ymgymeriad sy'n cael ei roi o dan baragraff 25 yn cael ei ymestyn i fynnu bod meddyg yn mynd ati i hysbysu'r awdurdod iechyd am unrhyw newid yn yr wybodaeth sy'n cael ei darparu gyda'r cais, ac i barhau i gyflenwi gwybodaeth i'r Awdurdod Iechyd unwaith y bydd wedi'i gynnwys. Mae paragraff 26 newydd yn ei gwneud hi'n ofynnol i'r meddyg gytuno i'r Awdurdod Iechyd ofyn i gorff rheoleiddiol y meddyg roi gwybodaeth benodol i'r Awdurdod Iechyd.

Yn ogystal, mae rheoliadau 7 a 25 o'r Prif Reoliadau yn cael eu diwygio i gynnwys cyfeiriad at y gorchmynion atal dros dro sydd ar gael o dan adran 41A o Ddeddf Feddygol 1973.