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STATUTORY INSTRUMENTS

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**2004 No. 2694**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Primary Medical Services)  
(Miscellaneous Amendments) Regulations 2004**

<i>Made</i>	- - - -	<i>18th October 2004</i>
<i>Laid before Parliament</i>		<i>25th October 2004</i>
<i>Coming into force</i>	- -	<i>15th November 2004</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 28D, 28E, 28S, 28V, 28W, 28X and 126(4) of the National Health Service Act 1977<sup>(1)</sup> and section 4(5) of the National Health Service and Community Care Act 1990<sup>(2)</sup> and all other powers enabling him in that behalf, hereby makes the following Regulations:

**PART 1**

**GENERAL**

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2004 and shall come into force on 15th November 2004.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

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(1) 1977 c. 49; section 28D was inserted by section 21(1) of the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”) and was amended by the Health Act 1999 (c. 8) (“the 1999 Act”), section 65(1), Schedule 4, paragraphs 4 and 16a and by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), section 4(3), Schedule 3, paragraph 7(3) and the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”), section 177(1) to (6) and section 184 and Schedule 11, paragraph 15; section 28E was inserted by section 22(1) of the 1997 Act and was amended by the 1999 Act, section 65(2) and Schedule 5; the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”) section 27(5)(a); the 2002 Act, section 4(3), Schedule 3, paragraph 8 and the 2003 Act, section 177(7) to (11); sections 28S, 28V and 28W were inserted by section 175(1) of the 2003 Act; section 28X was inserted by section 179(1) of the 2003 Act; section 126(4) was amended by the National Health Service and Community Care Act 1990 (c. 19), section 65(2), the 1999 Act, Schedule 4, paragraph 37(6) and the 2001 Act, Schedule 5, paragraph 5(13)(b).

(2) 1990 c. 19.

“GMS Contracts Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2004(3);

“PMS Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004(4); and

“Performers Lists Regulations” means the National Health Service (Performers Lists) Regulations 2004(5).

## PART 2

### AMENDMENT OF THE GMS CONTRACTS REGULATIONS

#### Amendment of regulation 2 of the GMS Contracts Regulations

2.—(1) Regulation 2(1) (interpretation) of the GMS Contracts Regulations shall be amended as provided in the following paragraphs.

(2) In the definition of “general medical practitioner”—

(a) after “means” insert “, unless the context otherwise requires”;

(b) in paragraph (a), omit “otherwise than by virtue of paragraph 1(d) of Schedule 6 to that Order”;

(c) in paragraph (b)(i), after “Health and Personal Social Services (Northern Ireland) Order 1978”, insert “or a person who has an acquired right to practise as a general medical practitioner pursuant to regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(6)”; and

(d) in paragraph (b)(ii), omit “other than by virtue of having an acquired right under paragraph (1)(d) of Schedule 6 to the 2003 Order”.

(3) For the definition of “GP Registrar”, substitute—

““GP Registrar” means a medical practitioner who is being trained in general practice by—

(a) until the coming into force for all purposes of article 4(5)(d) of the 2003 Order, a general 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 National Health Service (Vocational Training for General Medical Practice) Regulations 1997(7), and

(ii) performs primary medical services; and

(b) from the coming into force for all purposes of that article, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;”.

(4) Omit the definition of “GP Trainer”.

(5) In the definition of “out of hours services”, in paragraph (a), after “if provided” insert “by a contractor to its registered patients”.

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(3) S.I. 2004/291, as amended by S.I. 2004/906.

(4) S.I. 2004/627, as amended by S.I. 2004/906.

(5) S.I. 2004/585.

(6) S.I. 1994/3130; regulation 5 was amended by S.I. 1997/2817 and modified by article 117 of S.I. 2004/865. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Schedule 10, Part 2.

(7) S.I. 1997/2817 as amended by S.I. 1998/669 and modified by article 118 of S.I. 2004/865.

### **Amendment of regulation 4 of the GMS Contracts Regulations**

3. In regulation 4 (conditions relating solely to medical practitioners) of the GMS Contracts Regulations, add—

“(4) In paragraph (1), (2)(a) and (3)(a), “general medical practitioner” does not include—

(a) from the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the General Practitioner Register by virtue of—

- (i) paragraph 1(a) of Schedule 6 to that Order by virtue of his having been a restricted services principal included in a list specified in that paragraph,
- (ii) paragraph 1(d) of that Schedule, or
- (iii) article 11(2) of that Order because of an exemption under regulation 5(1)(d) of the regulations specified in paragraph (5);

(b) until the coming into force of article 10 of the 2003 Order, a medical practitioner who either—

- (i) until the coming into force of paragraph 22 of Schedule 8 to that Order—
  - (aa) has an acquired right to practise as a general medical practitioner pursuant to regulation 5(1)(a) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(8) only by virtue of having been a restricted services principal included in a list specified in that paragraph, or regulation 5(1)(d) of those Regulations; or
  - (bb) is exempt from the need to be suitably experienced by virtue of regulation 5(1)(d) of the regulations specified in paragraph (5), or
- (ii) upon the coming into force of that paragraph of that Schedule to that Order, is an eligible general practitioner pursuant to that paragraph by virtue of an acquired right under the provisions listed in sub-paragraph (a)(i) to (iii).

(5) The regulations referred to in paragraph (4)(a)(iii) and (b)(i)(bb) are the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(9), the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(10) and the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(11).

(6) In paragraph (4), “restricted services principal” has the same meaning as in the 2003 Order(12).”.

### **Amendment of paragraph 4 of Schedule 2 to the GMS Contracts Regulations**

4. In paragraph 4 (vaccinations and immunisations) of Schedule 2 to the GMS Contracts Regulations, in paragraph (2)(a), for “influenza vaccination” substitute “influenza and pneumococcal vaccinations”.

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(8) S.I. 1994/3130 as amended by S.I. 1997/2817 and 2003/3148. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(9) S.I. 1997/2817 as amended by S.I. 1998/669 and 2003/3148 and modified by S.I. 2004/865, article 118. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(10) S.I. 1998/5 as amended by S.I. 1998/669 and S.S.I. 2000/23 and modified by S.S.I. 2004/163, article 101. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(11) S.R. 1998/13 as modified by S.R. 2004/156, Article 93. The whole Regulations are prospectively revoked by S.I. 2003/1250, article 31(5) and Part 2 of Schedule 10.

(12) The definition of “restricted services principal” was substituted, for England, by S.I. 2004/865 and, for Scotland, by S.I. 2004/2261.

### **Amendment of Schedule 6 to the GMS Contracts Regulations**

5.—(1) Schedule 6 (other contractual terms) to the GMS Contracts Regulations shall be amended as provided in the following paragraphs.

(2) In paragraph 7 (clinical reports), at end insert—

“(3) This paragraph does not apply in relation to out of hours services provided by a contractor on or after 1st January 2005.”

(3) In paragraph 11 (standards for out of hours services)—

(a) for “quality standards” substitute “quality requirements”; and

(b) for ““Quality Standards in the Delivery of GP Out of Hours Services” published on 20th June 2002” substitute ““National Quality Requirements in the Delivery of Out of Hours Services” published on 14th October 2004”**(13)**.

(4) In paragraph 31 (rejection of closure notice by the Primary Care Trust), after sub-paragraph (8) insert—

“(8A) Subject to sub-paragraph (8B), the contractor’s list of patients shall remain closed for the period specified by the assessment panel in accordance with sub-paragraph (8)(b).

(8B) The contractor’s list of patients shall re-open before the expiry of the period mentioned in sub-paragraph (8A) if—

(a) the number of the contractor’s registered patients falls to the number specified by the assessment panel in accordance with sub-paragraph (8)(b) as the number of registered patients which, if that number were reached, would trigger the re-opening of the contractor’s list of patients; or

(b) the Primary Care Trust and the contractor agree that the list of patients should re-open.

(8C) If the contractor’s list of patients has re-opened pursuant to sub-paragraph (8B)(a), it shall nevertheless close again if, during the period specified by the assessment panel as the period for which the list should remain closed, the number of the contractor’s registered patients rises to the number specified by the assessment panel in accordance with sub-paragraph (8)(b) as the number of registered patients which, if that number were reached, would trigger the re-closure of the contractor’s list of patients.

(8D) Except in cases where the contractor’s list of patients is already open pursuant to paragraph (8B), the Primary Care Trust shall notify the contractor in writing between seven and fourteen days before the expiry of the closure period specified in paragraph (8A), confirming the date on which the contractor’s list of patients will re-open.”

(5) In paragraph 43 (restrictions on prescribing by supplementary prescribers), in sub-paragraph (6), after “Secretary of” insert “State”.

(6) In paragraph 48 (consent to dispense), in sub-paragraph (6)(a), for “paragraph (2)” substitute “paragraph (1)(c)”.

(7) In paragraph 50 (terms relating to the provision of dispensing services), in sub-paragraph (8)

(a) in paragraph (a), for “(3)(a)” substitute “(2)(a) of paragraph 50 of Schedule 6 to the GMS Regulations”;

(b) in paragraph (b), for “(5)” substitute “(4) of that paragraph”; and

(c) in paragraph (d), for “medical practitioner” substitute “contractor”.

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**(13)** The document “National Quality Requirements in the Delivery of Out of Hours Services” published on 14th October 2004 is published electronically at [www.out-of-hours.info](http://www.out-of-hours.info) or a copy may be obtained by writing to Primary Care, Room 4N34E, Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

- (8) In paragraph 53 (qualifications of performers), in sub-paragraph (2)—
- (a) for paragraph (c) substitute—
- “(c) a GP Registrar who has applied to a Primary Care Trust to have his name included in its medical performers list until the first of the following events arises—
- (i) the Primary Care Trust notifies him of its decision on that application; or
- (ii) the end of a period of two months, starting with the date on which his vocational training scheme began.”; and
- (b) at end, add—
- “(3) In this paragraph, “vocational training scheme” has the meaning given in regulation 21(2) of the National Health Service (Performers Lists) Regulations 2004(14).”.
- (9) In paragraph 64 (arrangements for GP Registrars), in sub-paragraph (1), omit “for the purpose of being trained by a GP Trainer with the agreement of the Secretary of State and”.
- (10) In paragraph 68 (appraisal and assessment), in sub-paragraph (1)(a), before “appraisal system”, in the second place where it occurs, insert “appropriate”(15).
- (11) In paragraph 72 (withdrawal and variation of approval under paragraph 70), for sub-paragraph (2) substitute—
- “(2) A notice served under sub-paragraph (1) shall take effect on the date on which it is received by the contractor.”.
- (12) In paragraph 77 (provision of information), at end insert—
- “(3) The contractor shall produce the information requested, or, as the case may be, allow access to it—
- (a) by such date as has been agreed as reasonable between the contractor and the Primary Care Trust; or
- (b) in the absence of such agreement, within 28 days of the request being made.”.
- (13) In paragraph 81 (annual return and review)—
- (a) after sub-paragraph (1), insert—
- “(1A) Subject to article 53 (annual returns and reviews) of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(16), one such return may be requested by the Primary Care Trust at any time during each financial year in relation to such period (not including any period covered by a previous annual return) as may be specified in the request.
- (1B) The contractor shall submit the completed return to the Primary Care Trust—
- (a) by such date as has been agreed as reasonable between the contractor and the Primary Care Trust; or
- (b) in the absence of such agreement, within 28 days of the request being made.”; and
- (b) at end insert—
- “(6) In this paragraph, “financial year” means the twelve months ending with 31st March.”.
- (14) In paragraph 98 (provision of information about complaints)—

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(14) [S.I. 2004/585](#).

(15) By correction slip issued by Her Majesty’s Stationery Office in April 2004 (ISBN 0-11-048656-0) the words “in an” were inserted after “he participates” in paragraph 68(1)(a).

(16) [S.I. 2004/865](#).

- (a) renumber the existing provision as sub-paragraph (1); and
- (b) after that provision, insert—

“(2) This paragraph does not apply in relation to out of hours services provided by a contractor on or after 1st January 2005.”

(15) In paragraph 101 (NHS dispute resolution procedure), in sub-paragraph (6), after “the matter” insert “under dispute”.

(16) In paragraph 122 (insurance), in sub-paragraph (3)(b) for “an employee of its in connection with clinical services which that employee” substitute “a person employed or engaged by it in connection with clinical services which that person”.

## PART 3

### AMENDMENT OF THE PMS AGREEMENTS REGULATIONS

#### **Amendment of regulation 2 of the PMS Agreements Regulations**

6.—(1) Regulation 2 (interpretation) of the PMS Agreements Regulations shall be amended as provided in the following paragraphs.

(2) For the definition of “GP Registrar”, substitute—

““GP Registrar” means a medical practitioner who is being trained in general practice by—

- (a) until the coming into force for all purposes of article 4(5)(d) of the 2003 Order, a general 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 National Health Service (Vocational Training for General Medical Practice) Regulations 1997(17), and
  - (ii) performs primary medical services; and
- (b) from the coming into force for all purposes of that article, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;”.

(3) Omit the definition of “GP Trainer”.

(4) In the definition of “out of hours services”, after “if provided” insert “by a contractor to its registered patients”.

#### **Amendment of regulation 3 of the PMS Agreements Regulations**

7. In regulation 3 (conditions: introductory) of the PMS Agreements Regulations, for “regulations 4 and” substitute “regulation”.

#### **Revocation of regulation 4 of the PMS Agreements Regulations**

8. Regulation 4 of the PMS Agreements Regulations is revoked.

#### **Amendment of regulation 5 of the PMS Agreements Regulations**

9. In regulation 5 (general condition relating to all agreements) of the PMS Agreements Regulations, in paragraph (3)—

- (a) in sub-paragraph (f), after “criminal offence” insert “other than murder”;
- (b) in sub-paragraph (g)(i), after “murder,” insert “or”;
- (c) in sub-paragraph (i)(ii), after “Insolvency Act 1986” insert “unless that order has ceased to have effect or has been annulled”;
- (d) omit sub-paragraph (i)(iv); and
- (e) after sub-paragraph (i) insert—
  - “(ia) an administrator, administrative receiver or receiver is appointed in respect of it;”.

#### **Amendment of regulation 6 of the PMS Agreements Regulations**

10. In regulation 6 (reasons) of the PMS Agreements Regulations, in paragraph (1), omit “4 or”.

#### **Amendment of regulation 7 of the PMS Agreements Regulations**

11. In regulation 7 (appeal) of the PMS Agreements Regulations, omit “4 or”.

#### **Amendment of regulation 9 of the PMS Agreements Regulations**

12. In regulation 9 (health service body status) of the PMS Agreements Regulations, in paragraph (5), for “(7)” substitute “(8)”.

#### **Amendment of regulation 15 of the PMS Agreements Regulations**

13. In regulation 15 (fees and charges) of the PMS Agreements Regulations, in paragraph (2)(b), after “drug” insert “, medicine”.

#### **Amendment of paragraph 2 of Schedule 4 to the PMS Agreements Regulations**

14. In paragraph 2 of Schedule 4 to the PMS Agreements Regulations (opt outs of out of hours services where the opt out notice is served before 1st October 2004), in sub-paragraph (17), before “1st October 2004” insert “before”.

#### **Amendment of Schedule 5 to the PMS Agreements Regulations**

15.—(1) Schedule 5 (other contractual terms) to the PMS Agreements Regulations shall be amended as provided in the following paragraphs.

(2) In paragraph 5 (clinical reports), in sub-paragraph (4), after “standards” insert “or requirements”.

(3) In paragraph 9 (standards for out of hours services)—

- (a) in sub-paragraph (1), for “, meet the quality standards” to “20th June 2002” substitute—
  - (a) “until 31st December 2004, meet the quality standards set out in the document entitled “Quality Standards in the Delivery of GP Out of Hours Services” published on 20th June 2002(18); and

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(18) This document is published by the Department of Health on its website at [www.dh.gov.uk/PublicationsAndStatistics//Publications/PublicationsPolicyAndGuidance](http://www.dh.gov.uk/PublicationsAndStatistics//Publications/PublicationsPolicyAndGuidance) or a copy may be obtained by writing to Primary Care, Room 4N34E, Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.



- (b) from 1st January 2005, meet the quality requirements set out in the document entitled “National Quality Requirements in the Delivery of Out of Hours Services” published on 14th October 2004<sup>(19)</sup>.”; and
- (4) in sub-paragraph (2)—
- (a) for “quality standards” substitute “quality requirements”; and
- (b) for ““Quality Standards in the Delivery of GP Out of Hours Services” published on 20th June 2002” substitute ““National Quality Requirements in the Delivery of Out of Hours Services” published on 22nd September 2004”.
- (5) In paragraph 30 (rejection of closure notice) after sub-paragraph (8) insert—
- “(8A) Subject to sub-paragraph (8B), the contractor’s list of patients shall remain closed for the period specified by the assessment panel in accordance with sub-paragraph (8)(b).
- (8B) The contractor’s list of patients shall re-open before the expiry of the period mentioned in sub-paragraph (8A) if—
- (a) the number of the contractor’s registered patients falls to the number specified by the assessment panel in accordance with sub-paragraph (8)(b) as the number of registered patients which, if that number were reached, would trigger the re-opening of the contractor’s list of patients; or
- (b) the Primary Care Trust and the contractor agree that the list of patients should re-open.
- (8C) If the contractor’s list of patients has re-opened pursuant to sub-paragraph (8B)(a), it shall nevertheless close again if, during the period specified by the assessment panel as the period for which the list should remain closed, the number of the contractor’s registered patients rises to the number specified by the assessment panel in accordance with sub-paragraph (8)(b) as the number of registered patients which, if that number were reached, would trigger the re-closure of the contractor’s list of patients.
- (8D) Except in cases where the contractor’s list of patients is already open pursuant to paragraph (8B), the Primary Care Trust shall notify the contractor in writing between seven and fourteen days before the expiry of the closure period specified in paragraph (8A), confirming the date on which the contractor’s list of patients will re-open.”.
- (6) In paragraph 38 (prescribing), in sub-paragraph (1), for “39 and 40” substitute “41 and 42”.
- (7) In paragraph 47 (consent to dispense), in sub-paragraph (6)(a), for “paragraph (2)” substitute “paragraph (1)(c)”.
- (8) In paragraph 50 (terms relating to the provision of dispensing services), in sub-paragraph (8)
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- (a) in paragraph (a), for “(3)(a)” substitute “(2)(a) of paragraph 50 of Schedule 5 to the PMS Regulations”;
- (b) in paragraph (b), for “(5)” substitute “(4) of that paragraph”.
- (9) In paragraph 53 (qualifications of performers), in sub-paragraph (2)—
- (a) for paragraph (c) substitute—
- “(c) a GP Registrar who has applied to a Primary Care Trust to have his name included in its medical performers list until the first of the following events arises—
- (i) the Primary Care Trust notifies him of its decision on that application; or

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<sup>(19)</sup> The document “National Quality Requirements in the Delivery of Out of Hours Services” published on 14th October 2004 is published electronically at [www.out-of-hours.info](http://www.out-of-hours.info) or a copy may be obtained by writing to Primary Care, Room 4N34E, Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.



- (ii) the end of a period of two months, starting with the date on which his vocational training scheme began.”; and
- (b) at end, add—
  - “(3) In this paragraph, “vocational training scheme” has the meaning given in regulation 21(2) of the National Health Service (Performers Lists) Regulations 2004.”.
- (10) In paragraph 63 (arrangements for GP Registrars), in sub-paragraph (1), omit “for the purpose of being trained by a GP Trainer”.
- (11) In paragraph 73 (provision of information), at end insert—
  - “(3) The contractor shall produce the information requested, or, as the case may be, allow access to it—
    - (a) by such date as has been agreed as reasonable between the contractor and the relevant body; or
    - (b) in the absence of such agreement, within 28 days of the request being made.”.
- (12) In paragraph 77 (annual return and review)—
  - (a) after sub-paragraph (1), insert—
    - “(1A) One such return may be requested by the relevant body at any time during each financial year in relation to such period (not including any period covered by a previous annual return) as may be specified in the request.
    - (1B) The contractor shall submit the completed return to the relevant body—
      - (a) by such date as has been agreed as reasonable between the contractor and the relevant body; or
      - (b) in the absence of such agreement, within 28 days of the request being made.”; and
  - (b) at end insert—
    - “(5) In this paragraph, “financial year” means the twelve months ending with 31st March.”.
- (13) In paragraph 80 (notice provisions specific to an agreement with a qualifying body), in sub-paragraph (2)(b), for “regulations 4 and” substitute “regulation”.
- (14) In paragraph 86 (complaints procedure), in sub-paragraph (2)(a)(i), after “paragraphs 87 to 90” insert “and 92”.
- (15) In paragraph 92 (provision of information about complaints)—
  - (a) renumber the existing provision as sub-paragraph (1); and
  - (b) after that provision, insert—
    - “(2) This paragraph does not apply in relation to out of hours services provided by a contractor on or after 1st January 2005.”.
- (16) In paragraph 95 (NHS dispute resolution procedure), in sub-paragraph (6), after “the matter” insert “under dispute”.
- (17) In paragraph 98 (variation of an agreement: general), in sub-paragraph (1), for “70(3)” substitute “69(3)”.
- (18) Omit paragraph 103 (termination by the relevant body for breach of conditions in regulation 4).
- (19) In paragraph 104 (termination by the relevant body for the provision of untrue etc information), for “regulations 4 and” substitute “regulation”.

(20) In paragraph 113 (insurance), in sub-paragraph (3)(b) for “an employee of its in connection with clinical services which that employee” substitute “a person employed or engaged by it in connection with clinical services which that person”.

## PART 4

### AMENDMENT OF THE PERFORMERS LISTS REGULATIONS

#### **Amendment of regulation 10 of the Performers Lists Regulations**

16. In regulation 10 of the Performers Lists Regulations (removal from performers list), in paragraph (14), for “paragraph (6)” substitute “paragraph (3) or (6)”.

#### **Amendment of regulation 21 of the Performers Lists Regulations**

17. In regulation 21 of the Performers Lists Regulations (interpretation), for the definition of “GP Registrar”, substitute—

- ““GP Registrar” means a medical practitioner who is being trained in general practice by—
- (a) until the coming into force for all purposes of article 4(5)(d) of the 2003 Order, a general 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) from the coming into force for all purposes of that article, a general medical practitioner who is approved under that article for the purpose of providing training under article 5(1)(c)(i) of the 2003 Order, whether as part of training leading to the award of a CCT or otherwise;”.

## PART 5

### AMENDMENT OF THE GENERAL MEDICAL SERVICES AND PERSONAL MEDICAL SERVICES TRANSITIONAL AND CONSEQUENTIAL PROVISIONS ORDER 2004

#### **Revocation of article 34 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004**

18. Article 34 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(20) (arrangements for GP Registrars) is revoked.

## PART 6

### TRANSITIONAL PROVISION

#### **Transitional provision relating to regulation 4 of the GMS Contracts Regulations**

**19.**—(1) This regulation applies where, in relation to a general medical services contract entered into before 15th November 2004, the only person who counted as the general medical practitioner for the purposes of regulation 4(1), (2)(a) or (3)(a) of the GMS Contracts Regulations falls within regulation 4(4) of those Regulations as inserted by regulation 3 of these Regulations.

(2) A Primary Care Trust shall not terminate a general medical services contract under paragraph 111 of Schedule 6 to the GMS Contracts Regulations on the grounds that the person referred to in paragraph (1) no longer falls within the definition of general medical practitioner for the purposes of regulation 4(1), (2)(a) or (3)(a) of the GMS Contracts Regulations as amended by these Regulations.

Signed on behalf of the Secretary of State

18th October 2004

*John Hutton*  
Minister of State,  
Department of Health

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make amendments to certain regulations relating to primary medical services.

Part 2 amends the National Health Service (General Medical Services Contracts) Regulations 2004 (the *GMS Contracts Regulations*). In particular—

- regulation 2(2) widens the definition of general medical practitioner in regulation 2 of the *GMS Contracts Regulations* to cover all medical practitioners who are included in the General Practitioner Register or who, prior to coming into force of that Register, are suitably experienced within the meaning of section 31 of the National Health Service Act 1977 (“the 1977 Act”) or have an acquired right to practise;
- regulation 3 restricts the categories of general medical practitioner who, under regulation 4 of the *GMS Contracts Regulations*, can act as the mandatory medical practitioner for the purposes of a general medical services contract. It excludes from that role practitioners who, prior to 1st April 2004 were restricted services principals or who were not considered to be suitably experienced for the purposes of operating as a Principal in the provision of general medical services under section 29 of the 1977 Act;
- regulation 5(2) disapplies the provisions relating to clinical reports in the case of out of hours services which are covered by the quality requirements referred to in regulation 5(3);
- regulation 5(4) amends paragraph 31 of Schedule 6 to the *GMS Contracts Regulations* to enable a contractor’s list of patients which has been closed as a result of a determination by an assessment panel to re-open by agreement before the end of the closure period specified by that panel and, in certain circumstances, to re-close again during that period;
- regulation 5(8) amends the circumstances in paragraph 53 of Schedule 6 to the *GMS Contracts Regulations* in which a GP Registrar can perform medical services under a contract without being included in a medical performers list. It brings them into line with those in regulation 22(3) of the National Health Service (Performers Lists) Regulations 2004;
- regulation 5(9) removes the requirement in paragraph 64 of Schedule 6 to the *GMS Contracts Regulations* for the Secretary of State to consent to the employment of a GP Registrar;
- regulation 5(12) inserts in paragraph 77 of Schedule 6 to the *GMS Contracts Regulations* a timescale for the provision of information by contractors to the Primary Care Trust;
- regulation 5(13) clarifies the timescale for the submission of annual returns under paragraph 81 of Schedule 6 to the *GMS Contracts Regulations*;
- regulation 5(14) disapplies the provision relating to the provision of information about complaints in the case of out of hours services which are covered by the quality requirements referred to in paragraph 11 of Schedule 6 (as amended by these Regulations);
- regulation 5(16) amends paragraph 122 of Schedule 6 to the *GMS Contracts Regulations* to provide that, for the purpose of meeting its obligation of holding adequate insurance, a contractor can rely on insurance held by a person engaged by it as well as by an employee.

Part 3 of the Regulations makes amendments to the National Health Service (Personal Medical Services Agreements) Regulations 2004 which mainly mirror those made to the *GMS Contracts Regulations* or make other minor drafting amendments. In addition, regulation 8 revokes regulation 4 of the *PMS Agreements Regulations* to remove conditions which had been imposed solely in relation to medical practitioners. The effect of the revocation is to leave such practitioners subject to the

same conditions as apply under regulation 5 of those Regulations to all persons eligible to enter into PMS Agreements.

Part 4 of the Regulations makes two amendments to the National Health Service (Performers Lists) Regulations 2004. Regulation 16 amends regulation 10 of those Regulations so that when a performer is removed from a performers list on any of the discretionary grounds, the removal does not take immediate effect. Regulation 17 amends the definition of GP Registrar in those Regulations to bring it into line with that included in the GMS Contracts and PMS Agreements Regulations (as amended by these Regulations).

Part 5 of the Regulations revokes a provision in the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 which is no longer required in the light of the amendment to paragraph 64 of Schedule 6 to the GMS Contracts Regulations made by regulation 5(9).

Part 6 of the Regulations makes transitional provision in relation to the removal by regulation 3 of the right of certain persons to be the mandatory general medical practitioner for the purposes of a general medical services contract. It provides that where such a person has been the mandatory medical practitioner for the purposes of a general medical services contract entered into before the date of coming into force of these Regulations, the contract will not be able to be terminated for breach of the amended requirements.