
STATUTORY INSTRUMENTS

2004 No. 2694

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

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(1)”; 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(2), 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”.

(1) [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.

(2) [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(3) 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(4), the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(5) and the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998(6).

(6) In paragraph (4), “restricted services principal” has the same meaning as in the 2003 Order(7).”.

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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- (3) 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.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) 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”(8).

(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”.

(8) 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 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(9).”.

(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”(10).

(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(11), 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)—

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

(10) 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).

(11) [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”.