
STATUTORY INSTRUMENTS

2004 No. 585

The National Health Service
(Performers Lists) Regulations 2004

PART 1

GENERAL PROVISIONS AS TO PERFORMERS LISTS

Removal from performers list

10.—(1) The Primary Care Trust must remove the performer from its performers list where it becomes aware that he—

- (a) has been convicted in the United Kingdom of murder;
- (b) has been convicted in the United Kingdom of a criminal offence, committed on or after the day prescribed in the relevant Part, and has been sentenced to a term of imprisonment of over six months;
- (c) is subject to a national disqualification;
- (d) has died; or
- (e) is no longer a member of the relevant health care profession.

(2) Where a Primary Care Trust is notified by the FHSAA that it has considered an appeal by a performer against—

- (a) a contingent removal by the Trust and has decided to remove him instead; or
- (b) a conditional inclusion, where he has been conditionally included in a performers list until the appeal has been decided, and has decided not to include him,

the Trust shall remove him from its performers list and shall notify him immediately that it has done so.

(3) The Primary Care Trust may remove a performer from its performers list where any of the conditions set out in paragraph (4) is satisfied.

(4) The conditions mentioned in paragraph (3) are that—

- (a) his continued inclusion in its performers list would be prejudicial to the efficiency of the services which those included in the relevant performers list perform (“an efficiency case”);
- (b) he is involved in a fraud case in relation to any health scheme; or
- (c) he is unsuitable to be included in that performers list (“an unsuitability case”).

(5) For the purposes of this regulation, in addition to the services covered by the definition of “health scheme” in section 49F(8), the following shall also be health schemes—

- (a) health services, including medical and surgical treatment, provided by the armed forces;

- (b) services provided by Port Health Authorities constituted under the Public Health (Control of Disease) Act 1984⁽¹⁾;
 - (c) medical services provided to a prisoner in the care of the medical officer or other such officer of a prison appointed for the purposes of section 7 of the Prison Act 1952⁽²⁾; and
 - (d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.
- (6) Where the performer cannot demonstrate that he has performed the services, which those included in the relevant performers list perform, within the area of the Primary Care Trust during the preceding twelve months, it may remove him from its performers list.
- (7) Subject to any provision in the relevant Part, in calculating the period of twelve months referred to in paragraph (6), the Primary Care Trust shall disregard any period during which—
- (a) the performer was suspended under these Regulations; or
 - (b) he was performing whole time service in the armed forces in a national emergency (as a volunteer or otherwise), compulsory whole-time service in the armed forces (including service resulting from reserve liability), or any equivalent service, if liable for compulsory whole-time service in the armed forces.
- (8) Where a Primary Care Trust is considering removing a performer from its performers list under paragraphs (3) to (6) or regulations 8(2), 12(3)(c) or 15(6)(b) or contingently removing a performer under regulation 12(1), it shall give him—
- (a) notice of any allegation against him;
 - (b) notice of what action it is considering and on what grounds;
 - (c) the opportunity to make written representations to it within 28 days of the date of the notification under sub-paragraph (b); and
 - (d) the opportunity to put his case at an oral hearing before it, if he so requests, within the 28 day period mentioned in sub-paragraph (c).
- (9) If there are no representations within the period specified in paragraph (8)(c), the Primary Care Trust shall decide whether or not to remove the performer and then, within 7 days of making that decision, notify him of—
- (a) that decision and the reasons for it (including any facts relied upon); and
 - (b) any right of appeal under regulation 15.
- (10) If there are representations, the Primary Care Trust must take them into account before reaching its decision, and shall then, within 7 days of making that decision, notify him of—
- (a) that decision and the reasons for it (including any facts relied upon); and
 - (b) any right of appeal under regulation 15.
- (11) If the performer requests an oral hearing, this must take place before the Primary Care Trust reaches its decision, and it shall then, within 7 days of making that decision, notify him of—
- (a) that decision and the reasons for it (including any facts relied upon); and
 - (b) any right of appeal under regulation 15.
- (12) When the Primary Care Trust notifies the performer of any decision, it shall inform him that, if he wishes to exercise a right of appeal, he must do so within the period of 28 days beginning with the date on which it informed him of its decision and it shall tell him how to exercise any such right.
- (13) The Primary Care Trust shall also notify the performer of his right to have the decision reviewed in accordance with regulation 14.

(1) 1984 c. 22.

(2) 1952 c. 52.

(14) Where the Primary Care Trust decides to remove a performer under paragraph (6), he shall not be removed from its performers list, until—

- (a) a period of 28 days starting with the day on which it reaches its decision; or
- (b) any appeal is disposed of by the FHSAA,

whichever is the later.