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WELSH STATUTORY INSTRUMENTS

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**2004 No. 1020**

**The National Health Service (Performers  
Lists) (Wales) Regulations 2004**

**PART 3**

**MEDICAL PERFORMERS LIST**

**Interpretation**

**21.—**(1) For the purposes of this Part the prescribed description of performer is medical practitioner and the relevant body is the General Medical Council. (2) In this Part —

“the 2002 Order” means the Medical Act 1983 (Amendment) Order 2002(1);

“the 2003 Order” means the General and Specialist Medical Practice (Education, Training and Qualifications) order 2003(2);

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

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

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

after the coming into force of article 10 of the 2003 Order, is entered on the GP Register.

“contractor” means a general medical practitioner, who both provides and performs primary medical services in accordance with section 28C(3) arrangements or under a general medical services.

“the Board” means the Postgraduate Medical Education and Training Board;

“both registers” means the register of medical practitioners and, after the coming in to force of article 10 of the 2003 Order, that register and the GP Register.

“CCT” means Certificate of Completion of Training awarded under article 8 of the 2003 Order, including any such certificate awarded in pursuance of the competent authority functions of the board specified in article 20(3)(a) of that Order;

“Fitness to Practise Panel” means a panel constituted pursuant to paragraph 19E of Schedule 1 to the Medical Act(4);

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(1) S.I. 2002/3135

(2) S.I. 2003/1250

(3) Section 28C was inserted by the National Health Service (Primary Care) Act 1997, section 21(1) and amended by the 1999 Act, section 65(1) and Schedule 4, the 2001 Act, section 40 and Schedule 5 and the 2003 Act, section 180 and Schedule 11, paragraph 414.

(4) Paragraph 19E is inserted by article 5(3) of the 2002 Order, with effect from such date as the Secretary of State may specify.

“GP Register” after the coming into force of article 10 of the 2003 Order, means the register kept by virtue of that article;

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

- (a) prior to the coming into force of article 5 of the 2003 Order, by a medical practitioner who —
  - (i) has been approved for that purpose by the Joint Committee on postgraduate Training for General practice under regulation 7 of the Vocational Training Regulations, and
  - (ii) performs primary medical services; or
- (b) after the coming into force of that article, approved by the Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i);

“general medical practitioner” means a GP Registrar or—

- (a) on the coming into force of article 10 of the 2003 Order, a medical practitioner whose name is included in the GP Register; and
- (b) until the coming into force of that article, a medical practitioner who is either—
  - (i) until the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, suitable experience within the meaning of section 31(2), section 21 of the National Health Service (Scotland) Act 1978<sup>(5)</sup> or Article 8(2) of the Health and Personal Social Services (Northern Ireland) Order 1978<sup>(6)</sup>; or
  - (ii) upon the coming into force of paragraph 22 of Schedule 8 to the 2003 Order, and eligible general practitioner pursuant to that paragraph or has an acquired right to practice as a general medical practitioner pursuant to regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994<sup>(7)</sup>;

“GP Trainer” means a general medical practitioner, other than a GP Registrar, who is—

- (a) prior to the coming into force of article 4(5)(d) of the 2003 Order, approved as a GP Trainer by the Joint Committee on Postgraduate Training for General Practice under regulation 7 of the Vocational Training Regulations, or
- (b) after the coming into force of that article, approved by the Board under article 4(5)(d) of the 2003 Order for the purposes of providing training to a GP Registrar under article 5(1)(c)(i);

“health case” has the meaning ascribed to it by section 35E of the Medical Act<sup>(8)</sup>;

“Health Committee” means the Health Committee of the General Medical Council referred to in section 1(3) of the Medical Act;

“Medical Act” means the Medical Act 1983<sup>(9)</sup>;

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

“professional registration number” means the number against the doctor’s name in the register of medical practitioners;

(5) 1978 c. 29

(6) S.I. 1978/1907 (N.I. 26) or would have been so considered notwithstanding the repeal of the relevant provision

(7) S.I. 1994/3130.

(8) Section 35 is inserted by article 8 of the 2002 Order, with effect from such date as the Secretary of State may specify.

(9) 1983 c. 54.

“relevant scheme” means the scheme in respect of which the general medical practitioner is applying to be included in a medical performers list;

“register of medical practitioners” has the meaning given to it by section 2(2) of the Medical Act;

“scheme” means an arrangement to provide primary medical services—

- (a) in accordance with section 28C; or
- (b) under a general medical services contract;

“the Vocational Training Regulations” means the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(10); and

“vocational training scheme” means

- (a) a pre-arranged programme of training which is designed for the purpose of enabling a doctor to gain the medical experience prescribed by regulation 6(1) of the Vocational Training Regulations; or
- (b) after the coming into force of article 4 of the 2003 order, post graduate medical education and training necessary for the award of a CCT in general practice under that article.

### **Medical performers performers list**

**22.**—(1) Subject to paragraphs (2) and (3) a medical practitioner may not perform any primary medical service, unless that medical practitioner is a general medical practitioner and his or her name is included in a medical performers list.

(2) A medical practitioner who is provisionally registered under section 15, 15A or 21 of the Medical Act(11), may perform primary medical service when the medical practitioner’s name is not included in a medical performers performers list, but only whilst acting in the course of employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act(12)).

(3) A GP Registrar, who has applied in accordance with these Regulations to a Local Health Board for inclusion in its medical performers list may perform primary medical services, despite not being included in that performers list, until the first of the following events arises—

- (a) the Local Health Board notifies the GP Registrar of its decision on that application; or
- (b) the end of a period of 2 months, starting with the date on which the GP Registrar’s vocational training scheme begins.

(4) In respect of any medical practitioner whose name is included in a medical performers list, the performers list shall include —

- (a) the medical practitioner’s full name;
- (b) the medical practitioner’s professional registration number with, suffixed to it, the organisational code given by the National Assembly for Wales to the Local Health Board;
- (c) the medical practitioner’s date of birth, where the medical practitioner consents, or if not, the date of the medical practitioner’s first registration in both registers;
- (d) if the medical practitioner is a contractor, that the medical practitioner is a contractor;
- (e) if the medical practitioner is a GP Registrar, that the medical practitioner is a GP Registrar;

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(10) S.I. 1997/2817, as amended by S.I. 1998/669 and 2003/3148.

(11) Relevant amendments to sections 15 and 21 are S.I. 1996/1591 and s. 41(10) of and paragraph 61(1) and (4) of Schedule 2 to the 1997 Act.

(12) Relevant amendments are s. 35(1) and (4) of the 1997 Act.

- (f) if the medical practitioner is an armed forces GP, that the medical practitioner is an armed forces GP; and
- (g) the date that the medical practitioner's name was included in the medical performers list or, if the medical practitioner was included in any medical, supplementary or services list of a Local Health Board, first included in such a list.

### **Application for inclusion in a medical performers list**

**23.**—(1) In addition to the information required by regulation 4(2), the general medical practitioner when making an application for inclusion of the general medical practitioner's name in a medical performers list shall give the following information —

- (a) the general medical practitioner's medical qualifications and where they were obtained, with evidence concerning the general medical practitioner's qualifications and experience;
- (b) subject to sub-paragraph (e), a declaration that the general medical practitioner is a fully registered general medical practitioner included in both registers;
- (c) the general medical practitioner's professional registration number and date of first registration in both registers;
- (d) in relation to the general medical practitioner's professional experience given under regulation 4(2)(e), the general medical practitioner shall separate that information into —
  - (i) general practice experience,
  - (ii) hospital appointments, and
  - (iii) other experience (including obstetric experience),
 with full supporting particulars of that experience;
- (e) if the general medical practitioner is a GP Registrar, the name and practice address of his or her GP Trainer and, if the general medical practitioner is not a fully registered general medical practitioner included in the register of medical practitioners, a declaration that the medical practitioner is registered in that register with limited registration, with details of the limits of that registration, as defined in the direction by virtue of which the general medical practitioner is registered;
- (f) whether the general medical practitioner is a contractor;
- (g) if the general medical practitioner is a contractor for more than one scheme and, if so, which schemes and which scheme of those schemes is the relevant scheme; and
- (h) whether the general medical practitioner is an armed forces GP.

(2) In addition to the undertakings required by regulation 4(3) the general medical practitioner shall give the following further undertakings —

- (a) not to perform any primary medical service in the area of another Local Health Board or equivalent body from whose medical performers list, medical list, services list or supplementary list or equivalent list the general medical practitioner has been removed, except where that removal was at the general medical practitioner's request or in accordance with regulation 10(6) of these Regulations, regulation 10(6) of the Services List Regulations, regulation 10(7) of the Supplementary List Regulations or regulation 7(2) or (11) of the Medical Regulations or any equivalent provision in Scotland or England, without the consent, in writing, of that Local Health Board or equivalent body;
- (b) if the general medical practitioner is a GP Registrar, unless the general medical practitioner has an acquired right under regulation 5(1)(d) of the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(13), an undertaking —

- (i) not to perform any primary medical service except when acting for and under the supervision of, the general medical practitioner's GP Trainer;
  - (ii) to withdraw from the medical performers list if any of the events listed in paragraph (3) takes place, and
  - (iii) (aa) until the coming into force of article 10 of the 2003 Order, to apply for a certificate of prescribed experience under regulation 10 of, or a certificate of equivalent experience under regulation 12 of, the Vocational Training Regulations, as soon as the general medical practitioner is eligible to do so, and to provide the Local Health Board with a copy of any such certificate; or  
(bb) after the coming into force of article 10 of the 2003 Order, to provide the Local Health Board with a evidence of his or her inclusion in the GP Register; and
  - (c) if the general medical practitioner is a contractor, to comply with the requirements of paragraph 122 of Schedule 6 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (gifts)(14); and
  - (d) if the general medical practitioner is not a contractor, to comply with the requirements of that paragraph as though the general medical practitioner were a contractor.
- (3) The events to which this paragraph applies are —
- (a) the conclusion of any period of training prescribed by regulation 6(3) of the Vocational Training Regulations, or, after the coming into force of articles 4 and 5 of the 2003 Order, any period of general practice training required pursuant to those articles unless —
    - (i) it forms part of a vocational training scheme which has not yet been concluded, or
    - (ii) the general medical practitioner provides the Local Health Board with—
      - (aa) a certificate of prescribed experience under regulation 10 of the Vocational Training Regulations,
      - (bb) a certificate of equivalent experience under regulation 11 of those Regulations, or
      - (cc) after the coming into force of article 10 of the 2003 Order, evidence of inclusion in the GP Register;
  - (b) the failure satisfactorily to complete any period of training within the meaning of regulation 9 of the Vocational Training Regulations, or after the coming into force of articles 4 and 5 of the 2003 Order, of general practice training within the meaning of those article; and
  - (c) the completion of a vocational training scheme, unless the medical practitioner provides the Local Health Board—
    - (i) with a certificate of prescribed experience under regulation 10 of, or a certificate of equivalent experience under regulation 12 of, the Vocational Training Regulations; or
    - (ii) after the coming into force of article 10 of the 2003 Order, evidence of inclusion in the GP Register.
- (4) If the medical practitioner is an armed forces GP, the medical practitioner shall not be required to give an undertaking pursuant to regulation 4(3)(e) (undertaking to participate in appraisal system).

**Additional grounds for refusal**

24.—(1) In addition to the grounds in regulation 6(1), a Local Health Board may also refuse to admit a medical practitioner to its medical performers list if —

- (a) having checked the information provided by the doctor under regulation 23(1)(a), (b) and (c), the Local Health Board considers the medical practitioner is unsuitable to be included in its performers list; or
- (b) the medical practitioner’s registration in the register of medical practitioners is subject to conditions imposed, before the coming into force of article 13 of the 2002 Order, pursuant to a direction —
  - (i) under section 36(1)(iii) of the Medical Act(15), of the Professional Conduct Committee,
  - (ii) under section 37 of that Act (16), of the Health Committee,
  - (iii) under section 36A of or paragraph 5A(3) of Schedule 4 to that Act(17), of the Committee on Professional Performance of the General Medical Council referred to in section 1(3) of that Act, or
- (c) the medical practitioner’s registration in the register of medical practitioners is subject to an order, under section 41A of that Act(18) —
  - (i) before the coming into force of article 13 of the 2002 Order, of any of those committees or of the Interim Orders Committee of that Council referred to in section 1(3) of that Act,
  - (ii) after the coming into force of that article, of a Fitness to Practise Panel or an Interim Orders Panel of that General Medical Council;
- (d) after the coming into force of article 13 of the 2002 Order, the medical practitioner’s registration in that register is subject to conditions imposed by a Fitness to Practise Panel pursuant to section 35D(2)(c) (5)(c), (8)(c ) or (12)(c) of the Medical Act(19); or
- (e) after the coming into force of article 14 of the 2002 order, the medical practitioner’s registration in that register is subject to conditions imposed by a Fitness to Practise Panel pursuant to rules made under paragraph 5A of Schedule 4 to the Medical Act(20).

(2) In addition to the grounds in regulation 6(2), a Local Health Board shall also refuse to admit a medical practitioner to its medical performers list if —

- (a) the medical practitioner is a contractor and, at the time of his or her application, more of the patients of the relevant scheme reside in the area of another Local Health Board than reside in the area of the Local Health Board in whose performers list the medical practitioner has applied for inclusion;
- (b) the medical practitioner is a contractor and the relevant scheme is not one that lies within its area; or
- (c) the medical practitioner is included in the medical performers list of another Local Health Board, unless the medical practitioner has given notice in writing to that Local Health Board that the medical practitioner wishes to withdraw from that list.

(15) Section 36 was amended by the 1995 Act, section 4 and Schedule 1, paragraphs 1 and 5 and by S.I. 2000/1803, articles 2 and 5.

(16) Section 37 was amended by the 1995 Act, section 4 and Schedule 1, paragraphs 1 and 6 and by S.I. 2000/1803, articles 2 and 7.

(17) Section 36A was inserted by the 1995 Act, section 1 and amended by S.I. 2000/1803, articles 2 and 6 and paragraph 5A of Schedule 4 was added by the 1995 Act, section 4 and Schedule 1, paragraphs 1 and 20.

(18) Section 41A was inserted by S.I. 2000/1803, articles 2 and 10.

(19) Section 35D is inserted by article 13 of the 2002 Order, with effect from such date as the Secretary of State may specify

(20) Schedule 4 is substituted by article 14 of the 2002 Order with effect from such date as the Secretary of State may specify.

(3) For the purposes of regulation 6(2)(d), the day prescribed in this Part is 3rd November 2003 or, if that medical practitioner had been included in a medical list or a supplementary performers list, 26th August 2002.

(4) Regulation 6(2)(a) (intention to work in the Local Health Board's area) shall not apply in the case of an armed forces GP.

(5) In addition to checking the information provided by the doctor, as required by regulation 6(3)(a), the Local Health Board shall also check the information the doctor provided under regulation 23.

### **Requirements with which a doctor in a medical performers list must comply**

**25.** Regulation 9(6) (requirement to participate in appraisal system) shall not apply in the case of an armed forces GP, but in such a case the medical practitioner shall provide the Local Health Board with a copy of the annual appraisal undertaken by the Ministry of Defence or the armed forces, as the case may be.

### **Grounds for removal from a medical performers list**

**26.—**(1) Subject to paragraph (2) and in addition to the grounds in regulation 10(1), the Local Health Board must remove a medical practitioner from its performers list where it becomes aware that the medical practitioner is —

- (a) the subject of a direction given by the Professional Conduct Committee under section 36(1)(i) or (ii) of the Medical Act (professional misconduct and criminal offences)(**21**),
- (b) the subject of an order or direction made by that Committee under section 38(1) of that Act (order for immediate suspension)(**22**);
- (c) from the coming into force of article 13 of the 2002 Order, the subject of a direction by a Fitness to Practise Panel for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), (10)(a) or (b) (functions of a Fitness to Practise Panel) or section 38(1) (powers to order immediate suspension etc) of that Act(**23**);
- (d) from the coming into force of the article 14 of the 2002 Order, the subject of a direction by a Fitness to Practice Panel suspending the medical practitioner pursuant to rules made under paragraph 5A(3) of Schedule 4 of that Act(**24**) (suspension for failure to comply with reasonable requirements as to assessment);
- (e) included in the medical performers performers list of another Local Health Board; or
- (f) if a GP Registrar, in breach of the undertaking provided in accordance with regulation 23(2) and has failed to withdraw from the performers list after the Local Health Board has given the GP Registrar 28 days notice requesting the doctor to do so.

(2) Paragraph (1)(c) shall not apply where a direction that a medical practitioner's registration is suspended is made in a health case.

(3) For the purposes of regulation 10(1)(b), the day prescribed in this Part is 3rd November 2003 or, if that medical practitioner had been included in a medical performers list or a supplementary performers list, 26th August 2002.

(4) Regulation 10(6) (power to remove for non-practice in the area) shall not apply in the case of an armed forces GP.

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(21) Section 36 was amended by [S.I. 2000/1803](#).

(22) Section 38(1) was amended by the 1995 Act, section 4 and Schedule 1, paragraphs 1 and 7.

(23) Sections 35D and 38 inserted by article 13 of the 2002 Order, with effect from such dates as the Secretary of State may specify.

(24) Schedule 4 is inserted by article 14 of the 2002 order, with effect from such date as the Secretary of State may specify.

(5) In calculating the period of 12 months under regulation 10(7) (periods to be disregarded), the Local Health Board shall disregard any period during which the doctor's registration or the doctor's entitlement to practise as such was suspended —

- (a) before the coming into force of article 13 of the 2002 Order by a committee of the General Medical Council pursuant to sections 37 or 41A of the Medical Act;
- (b) after the coming into force of that article, by a Fitness to Practise Panel pursuant to section 41A(1)(a) of that Act; or
- (c) after the coming into force of that article, in a health case.

**Additional decision that may be appealed**

27. A general medical practitioner may also appeal, under regulation 15, against a decision of the Local Health Board to refuse to include the general practitioner's name in its medical performers list under regulation 24(1).