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WELSH STATUTORY INSTRUMENTS

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**2002 No. 2802 (W.270)**

**NATIONAL HEALTH SERVICE, WALES**

The National Health Service (General Medical Services Supplementary List) (Wales) (Amendment), the National Health Service (General Medical Services) (Amendment) (Wales) (No. 3), the National Health Service (General Dental Services) (Amendment) (Wales) (No. 3) and the National Health Service (General Ophthalmic Services) (Amendment) (Wales) (No. 2) Regulations 2002

*Made* - - - - - *12th November 2002*

*Coming into force* - - - - - *15th November 2002*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 29, 29A, 29B, 38, 39, 43D, 43ZA, 49F, 49I, 49L, 49M, 49N, 49P, 49Q, 49R, and 126(4) of the National Health Service Act 1977(1) and section 65 of the Health and Social Care Act hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Supplementary List) (Wales) (Amendment), the National Health Service (General Medical Services) (Amendment) (Wales) (No. 3), the National Health Service (General Dental Services) (Amendment)

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(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19), section 26(2)(g) and (i), for the definition of “prescribed” and “regulations”. Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17 and amended by the Health Services Act 1980 (c. 53), section 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17), schedule 1, paragraph 18; and by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), Schedule 2, paragraph 8. Sections 29A and 29B were inserted by the 1997 Act, section 32, and amended by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), section 20. Section 43ZA was inserted by the 2001 Act, section 21. Sections 49F to 49R were inserted by the 2001 Act, section 25. Section 126(4) was amended by the 1990 Act, section 65(2); and by the 1999 Act, schedule 4, paragraph 37(6). The functions of the Secretary of State under sections 29, 29A, 29B, and 126(4) of the 1977 Act transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 S.I. 1999/672, as amended by the 1999 Act section 66(5); section 68 of the 2001 Act provides that Schedule 1 shall be construed so as to include the amendments by that Act to the 1977 Act which are sections 43ZA and 43F to 43.

(Wales) (No. 3) and the National Health Service (General Ophthalmic Services) (Amendment) (Wales) (No. 2) Regulations 2002 and shall come into force on 15th November 2002.

(2) In these Regulations—

- (a) “the Supplementary List Regulations” (“*Rheoliadau'r Rhestr Atodol*”) means the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002(2);
- (b) “the GMS Regulations” (“*y Rheoliadau GMS*”) means the National Health Service (General Medical Services) Regulations 1992(3);
- (c) “the GDS Regulations” (“*y Rheoliadau GDS*”) means the National Health Service (General Dental Services) Regulations 1992(4);
- (d) “the GOS Regulations” (“*y Rheoliadau GOS*”) means the National Health Service (General Ophthalmic Services) Regulations 1986(5)

(3) These Regulations apply to Wales only.

### **Amendment of the Supplementary List Regulations**

2. The Supplementary List Regulations shall be amended in accordance with the provisions of regulation 3.

3.—(1) In regulation 6(2)(b) and (c), delete the word “England” and substitute the word “Wales”.

(2) In regulation 9(2), delete sub-paragraphs (b) and (c) and substitute the following—

- “(b) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the United Kingdom, 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 with an offence which, if committed in the United Kingdom would constitute a criminal offence;”.

(3) In regulation 11, delete paragraph (4)(b) and substitute the following—

- “(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;”.

(4) In regulation 15, delete paragraph (6)(a) and substitute the following—

- “(a) the Health Authority and the doctor may each apply to the FHSAA for the conditions imposed on the doctor to be varied, for different conditions to be imposed, or for the contingent removal to be revoked;”.

### **Amendment of the GMS Regulations**

4. The GMS Regulations shall be amended in accordance with the provisions of regulation 5.

5.—(1) In regulation 7B(2), delete sub-paragraphs (b) and (g) and substitute the following—

- “(b) the length of time since any such offence or incident was committed or occurred, and since any criminal conviction or investigation;

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(2) S.I. 2002/1882(W.191)

(3) S.I. 1992/635; relevant amending instruments are S.I. 1998/682, 1998/2838, 2000/220 having effect in water by virtue of S.I. 2000/1707 (W.114) and 2002/1896 (W.197).

(4) S.I. 1992/661; relevant amending instruments are S.I. 1993/2209, 1993/3172, 1995/3092, 1995/704, 1996/2051, 1998/1648, 1998/2224, 2000/2459, 2001/289, 2001/1746 and 2002/1881 (W.190).

(5) S.I. 1986/975; relevant amending instruments are 1998/486, 1989/395, 1990/1051, 1991/583, 1992/404, 1995/558, 1996/705, 1996/2320, 1999/2562, 2001/414 and 2002/1883 (W.192).

- (g) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from the Health Authority 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;”.
- (2) In regulation 7B(4), delete sub-paragraph (c) and substitute the following—
- “(c) whether there are other fraud cases or other criminal offences to be considered;”.
- (3) Delete regulation 7D(5) and substitute the following—
- “(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 relating to that information.”.
- (4) In regulation 18EE(3), delete sub-paragraphs (h) and (i) and substitute the following—
- “(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.”.
- (5) In regulation 34A, delete paragraphs (1) and (4) and substitute the following—
- “(1) A Health Authority shall make payments to any doctor who is suspended in accordance with the determination of the National Assembly for Wales in relation to such payments.
- (4) Subject to paragraphs (5) and (6), the determination of the National Assembly for Wales 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).”.
- (6) In Schedule 2,—
- (i) in paragraph 23A(2), delete “31st October 2002” and substitute “31st December 2002”;
- (ii) in paragraph 36A(1), delete the final words appearing after sub-paragraph (k) and substitute the following—
- “and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place , and any outcome.”;
- (iii) in paragraph 36A(2), delete the final words appearing after sub-paragraph (h) and substitute the following—
- “and if so, give the name and registered office of the body corporate, and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.”.
- (iv) In paragraph 36A(4), delete sub-paragraph (e) and substitute the following—
- “(e) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in the United Kingdom would constitute a criminal offence;”;

(v) In paragraph 36A(4), delete the final words appearing after sub-paragraph (k) and substitute the following—

“and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.”.

### **Amendment of the GDS Regulations**

6. The GDS Regulations shall be amended in accordance with the provisions of regulation 7.

7.—(1) In Regulation 2(1) (interpretation), delete paragraph (b) of the definition of “suspended” and substitute the following—

“(b) suspended by the Tribunal.”.

(2) In regulation 5, for paragraph (3ZA)

“(3ZA) The Health Authority must, before determining an application, check so far as practicable—

- (a) the information provided by the dentist in accordance with paragraphs 5B, 11A and 14 of Schedule 2, and
- (b) with the National Health Service Counter Fraud Service whether the dentist has any record of a fraud case.”;

(3) In regulation 5(4), for “the date of receipt of the application” substitute “the date of the Health Authority receiving all the information mentioned in paragraph (2)”;

(4) In regulation 5 after paragraph (4) add—

“(5) Where a Health Authority proposes to include a dentist on a list subject to conditions imposed under regulation 5ZD, the name of the dentist may be included on the list during the period for bringing an appeal to the FHSAA pursuant to that regulation, or if an appeal is brought, until such time as that appeal is decided, provided the dentist agrees to be bound by the condition imposed until the time for appeal has expired or the dentist’s appeal is decided.”.

(5) In Regulation 5ZA(1), delete sub-paragraph (c) and substitute the following—

“(c) that having contacted referees, they are not satisfied with the references given in accordance with paragraph 11A of Schedule 2.”;

(6) In Regulation 5ZB, delete paragraph (2) and substitute the following—

“(2) A Health Authority may only defer consideration under paragraph (1) above until the outcome of the relevant events mentioned in sub-paragraphs (a) (b) (d) (e) or (f) is known or whilst the dentist is suspended under sub-paragraph (c).”.

(7) In Regulation 8B(4), delete sub-paragraphs (a), (b) and (c) and substitute the following—

- “(a) the nature of any fraud case;
- (b) the length of time since any incident of fraud occurred, and since any investigation into that incident of fraud was concluded;
- (c) whether there are other fraud cases or other criminal offences to be considered.”.

(8) Delete regulation 8D(1) and substitute the following—

“**8D.**—(1) Where a Health Authority—

- (a) refuse to include a dentist under Regulation 5ZA;
- (b) remove a dentist under section 49F of the Act;

- (c) continually remove a dentist under section 49G of the Act; or
- (d) suspend a dentist under section 49I or 49J of the Act,

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

(9) Delete regulation 8H(4) and renumber regulation 8H(5) as regulation 8H(4).

(10) In regulation 10, paragraph (2A)(c) shall be amended by deleting the words “who has been suspended under section 49I(1)(a) of the Act,” the second time they appear.

(11) In Schedule 1, delete paragraph 31H(1) (a) and substitute the following—

“**31H.**—(1) a dentist shall by 31st October 2002 supply in writing information to the Health Authority as to whether the dentist—

- (a) has any criminal convictions in the United Kingdom;”.

### **Amendment of the GOS Regulations**

**8.** The GOS Regulations shall be amended in accordance with the provisions of regulation 9.

**9.** Schedule 1A shall be amended as follows—

(1) delete paragraph 7(a)(ii) and substitute the following—

“(ii) the ophthalmic medical practitioner or optician has been bound over in the United Kingdom;”.

(2) delete paragraph 7(a) (viii) and substitute the following—

“(viii) the ophthalmic medical practitioner or optician has been subject to an investigation into the professional conduct of the ophthalmic medical practitioner or optician in respect of any current or previous employment where the outcome was adverse;”.

(3) delete the final words appearing after paragraph 7(b)(vi) and substitute the following—

“and if so, give the name and registered office of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(6)

12th November 2002

*D. Elis-Thomas*  
Presiding Officer of the National Assembly for  
Wales

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (“the Supplementary List Regulations”) which provide for a supplementary list to be kept by Health Authorities in accordance with the provisions of section 43D of the National Health Service Act 1977 (“the 1977 Act”) and further amend the National Health Service (General Medical Services) Regulations 1992 (“the GMS Regulations”) which regulate the terms on which doctors provide general medical services under the 1977 Act. The Regulations also amend the National Health Service (General Dental Services) Regulations 1992 (“the GDS Regulations”) which regulate the terms on which dentists provide general dental services under the 1977 Act and the National Health Service (General Ophthalmic Services) Regulations 1986 which regulate the terms on which ophthalmic medical practitioners or opticians provide general ophthalmic services under the 1977 Act.

The GMS Regulations, the GDS Regulations and the GOS Regulations were recently amended by Statutory Instruments [2002/1896 \(W.197\)](#), [2002/1881 \(W.190\)](#) and [2002/1883 \(W. 192\)](#) respectively. These Regulations correct typographical errors introduced into the GMS, GDS and GOS Regulations by the amending instruments and resolve anomalies in the bilingual text.

The Supplementary List Regulations are similarly amended.