

WELSH STATUTORY INSTRUMENTS

**2004 No. 1020**

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

**[<sup>F1</sup>PART 4**

**DENTAL PERFORMERS LISTS**

**Textual Amendments**

- F1** Pt. 4 inserted (1.4.2006) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2006 \(S.I. 2006/945\)](#), regs. 1(1), **11** (with Sch.)

**Interpretation**

**28.**—(1) For the purposes of this Part, the prescribed description of performer is dentist and the relevant body is the General Dental Council.

(2) In this Part—

“the 2005 Order” means articles 18 to 24 of the Dentists Act 1984 (Amendment) Order 2005;

“approved trainer” means a dentist—

- (a) whose name is included in a dental performers list; and
- (b) who has been approved for a specified period, which has not elapsed, by [<sup>F2</sup>HEIW] as having the requisite skills and suitable practice facilities to enable [<sup>F3</sup>the dentist] to act as a trainer;

“community dental service” means dental services provided under—

- (a) sections 3(1)(c) and 5(1A);
- (b) in Scotland, under sections 1 and 39(2) of the NHS (Scotland) Act 1978; and
- (c) in Northern Ireland, under article 5(1)(c) and 9(1A) of the Health and Personal Social Services (Northern Ireland) Order 1972;

“contractor” means a dentist, who both provides and performs primary dental services in accordance with section 28C arrangements or under a general dental services contract under section 28K;

“dentist” means a dental practitioner who is registered in the dentists register;

“Dentists Act” means the Dentists Act 1984;

“dentists register” means the register referred to in section 14(1) of the Dentists Act;

“health case” means a case falling within either section 28(1) (powers of the Health Committee) or, after the coming into force of the 2005 Order, section 27(2)(c) of the Dentists Act (allegations) ;

“Health Committee” means the Health Committee of the General Dental Council, referred to in section 2 of the Dentists Act (committees of the Council);

[<sup>F4</sup>“HEIW” means Health Education and Improvement Wales, the Special Health Authority established by article 2 of the Health Education and Improvement Wales (Establishment and Constitution) Order 2017, which must exercise its functions in relation to the planning, commissioning, delivery and quality assurance of education and training for persons engaged in the provision of health services in Wales and which, for the purposes of this Part, is responsible for the arrangement and provision of a suitable learning environment for dentists performing primary dental services to enable dentists to meet the requirements and standards of the General Dental Council and Welsh Government;]

[<sup>F4</sup>“NWSSP committee” means NHS Wales Shared Services Partnership, established by the Velindre National Health Service Trust Shared Services Committee (Wales) Regulations 2012, which is responsible for exercising functions of Velindre University NHS Trust in relation to shared services, policy and strategy, and the management and provision of shared services to the health service in Wales;]

“personal dental services” means personal dental services provided pursuant to Part I of the Primary Care Act (pilot schemes for primary care);

<sup>F5</sup>  
...

“Practice Committee”, after the coming into force of the 2005 Order, means the Professional Conduct Committee, the Health Committee or the Professional Performance Committee of the General Dental Council referred to in section 2 of the Dentists Act;

“Preliminary Proceedings Committee” means the Preliminary Proceedings Committee of the General Dental Council, referred to in section 2 of the Dentists Act;

“Professional Conduct Committee” means the Professional Conduct Committee of the General Dental Council, referred to in section 2 of the Dentists Act;

“professional registration number” means the number against the dentist’s name in the dentists register;

“relevant scheme” means the scheme in respect of which the dentist is applying to be included in a dental performers list;

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

- (a) in accordance with section 28C; or
- (b) under a general dental services contract; <sup>F6</sup>...

[<sup>F7</sup>“Velindre University NHS Trust” means the NHS trust established by article 2 of the Velindre National Health Service Trust (Establishment) Order 1993;]

[<sup>F8</sup>“foundation training”] means a relevant period of employment during which a dentist is employed under a contract of service by [<sup>F9</sup>Velindre University NHS Trust under the direction of the NWSSP committee, and during that period the dentist must attend the practice of] an approved trainer [<sup>F10</sup>who has agreed with HEIW to supervise the provision by the dentist of]<sup>F11</sup>... an appropriate range of dental care and treatment and [<sup>F12</sup>for the dentist] to attend such study days as that contract provides, with the aims and objectives of enhancing clinical and administrative competence and promoting high standards through relevant postgraduate training and in particular to—

- (a) enable the dentist to practise and improve his or her skills;
- (b) introduce the dentist to dental practice in primary care;
- (c) identify the dentist’s personal strengths and weaknesses and balance them through a planned programme of training;

- (d) promote oral health of, and quality dental care for, patients;
  - (e) develop further and implement peer and self review, and promote awareness of the need for professional education, training and audit as a continuing process; and
  - (f) enable the dentist to—
    - (i) make competent and confident professional decisions including decisions for referrals to other services,
    - (ii) demonstrate that he or she is working within the guidelines regarding the ethics and confidentiality of dental practice,
    - (iii) implement regulations and guidelines for the delivery of safe practice,
    - (iv) know how to obtain appropriate advice on, and practical experience of, legal and financial aspects of practice, <sup>F13</sup>...
    - (v) demonstrate that he or she has acquired skill and knowledge in the psychology of care of patients and can work successfully as a member of a practice team <sup>F14</sup>, and]
    - (vi) <sup>F15</sup>demonstrate that he or she has completed foundation training to a satisfactory level.]
- (3) In the definition of “[<sup>F8</sup>foundation training]” in paragraph (2), “relevant period of employment” means—
- <sup>F16</sup>(a) a period of full-time employment <sup>F17</sup>with Velindre University NHS Trust under the direction of NWSSP], normally of one year and not more than two years, to demonstrate satisfactory completion of foundation training;]
  - (b) an equivalent period of part-time employment; or
  - (c) in the case of a dentist, who is neither exempt under regulation 31(5) from the requirement to undertake [<sup>F8</sup>foundation training], nor has completed [<sup>F8</sup>foundation training] as in subparagraph (a) or (b), but—
    - (i) has performed community dental service,
    - (ii) has performed personal dental services prior to 1 April 2006,
    - (iii) has otherwise gained experience of dentistry in primary care as a dentist,
    - (iv) has been employed in a hospital as a dentist, or
    - (v) holds or is enrolled on a course to achieve a postgraduate qualification in dentistry registerable with the General Dental Council as an additional diploma by virtue of regulations made under section 19(1)(c) of the Dentists Act (regulations with respect to the register),
- such period of employment, which may be less than, but will not exceed that in subparagraph (a) or an equivalent period of part-time employment, as [<sup>F18</sup>HEIW] may determine that [<sup>F19</sup>the dentist] must complete in order to have satisfactorily completed [<sup>F8</sup>foundation training].

#### Textual Amendments

- F2** Word in reg. 28(2) substituted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), 2(2)(a)(i)
- F3** Words in reg. 28(2) substituted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), 2(2)(a)(ii)
- F4** Words in reg. 28(2) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), 2(2)(d)

- F5** Words in reg. 28(2) omitted (1.12.2020) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(b)**
- F6** Word in reg. 28(2) omitted (1.12.2020) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(e)**
- F7** Words in reg. 28(2) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(f)**
- F8** Words in Pt. 4 substituted (1.3.2016) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016 (S.I. 2016/101), regs. 1(2), **8**
- F9** Words in reg. 28(2) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(c)(i)**
- F10** Words in reg. 28(2) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(c)(ii)**
- F11** Words in reg. 28(2) omitted (1.12.2020) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(c)(iii)**
- F12** Words in reg. 28(2) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(2)(c)(iv)**
- F13** Word in reg. 28(2) omitted (1.3.2016) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016 (S.I. 2016/101), regs. 1(2), **9(2)**
- F14** Word in reg. 28(2) substituted (1.3.2016) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016 (S.I. 2016/101), regs. 1(2), **9(3)**
- F15** Words in reg. 28(2) inserted (1.3.2016) by virtue of The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016 (S.I. 2016/101), regs. 1(2), **9(4)**
- F16** Reg. 28(3)(a) substituted (1.3.2016) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2016 (S.I. 2016/101), regs. 1(2), **9(5)**
- F17** Words in reg. 28(3)(a) inserted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(3)(a)**
- F18** Word in reg. 28(3) substituted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(3)(b)(i)**
- F19** Words in reg. 28(3) substituted (1.12.2020) by The National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2020 (S.I. 2020/1207), regs. 1(2), **2(3)(b)(ii)**

### Dental performers list

**29.**—(1) Subject to paragraph 14 of the Schedule to the Amendment Regulations, a dentist may not perform any primary dental services, unless he or she is a dentist whose name is included in a dental performers list.

(2) Paragraph (1) does not apply to a dentist, who is undertaking [<sup>F8</sup>foundation training], during the first [<sup>F20</sup>three months] of that training.

(3) In respect of any dentist, whose name is included in a dental performers list, the list will include—

- (a) his or her full name;
- (b) his or her professional registration number with, suffixed to it, the organisational code given by the National Assembly for Wales to the Local Health Board;
- (c) his or her date of first registration in the dentists register;
- (d) whether he or she is a dentist undertaking [<sup>F8</sup>foundation training];
- (e) whether he or she is a contractor; and
- (f) the date that his or her name was included in the dental performers list or, if his or her name was included in any dental list of a Local Health Board, first included in such a list.

### Textual Amendments

- F8** Words in Pt. 4 substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **8**
- F20** Words in reg. 29(2) substituted (1.7.2008) by [The National Health Service \(Primary Medical Services\) and \(Performers Lists\) \(Miscellaneous Amendments\) \(Wales\) Regulations 2008 \(S.I. 2008/1425\)](#), regs. 1(2), **9**

### Application for inclusion in a dental performers list

**30.**—(1) In addition to the information required by regulation 4(2), the dentist, when making an application for the inclusion of his or her name in a dental performers list, will give the following information—

- (a) his or her dental qualifications and where they were obtained, with evidence concerning his or her qualifications and experience;
- (b) unless he or she is a dentist undertaking [<sup>F8</sup>foundation training], evidence that he or she has completed [<sup>F8</sup>foundation training];
- (c) a declaration that he or she is included in the dentists register;
- (d) his or her professional registration number and date of first registration;
- (e) if he or she is a dentist undertaking [<sup>F8</sup>foundation training], the name and practice address of his or her approved trainer;
- (f) whether he or she is a contractor; and
- (g) whether he or she is a contractor for more than one scheme and, if so, which schemes and which of those schemes is the relevant scheme.

(2) In addition to the undertakings required by regulation 4(3), the dentist will give the following further undertakings—

- (a) not to perform any primary dental services in the area of another Local Health Board or equivalent body from whose dental performers list, dental list, or equivalent list he or she has been removed, except where that removal was at his or her request or in accordance with regulation 10(6) of these Regulations or regulation 8(3) of the Dental Regulations or any equivalent provision in Scotland or England, without the consent, in writing, of that Board or equivalent body;
- (b) if he or she is a dentist undertaking [<sup>F8</sup>foundation training], an undertaking—
  - (i) not to perform any primary dental services except when acting [<sup>F21</sup>in accordance with the terms of the contract of employment for service with Velindre University NHS Trust and] for and under the direction of his or her approved trainer,
  - [<sup>F22</sup>(ii) to withdraw from the dental performers list if he or she fails to satisfactorily complete his or her foundation training, and]
  - [<sup>F23</sup>(iii) upon satisfactory completion of the dentist's foundation training, to provide the Local Health Board with satisfactory evidence of that fact;]
- (c) if he or she is a contractor, to comply with the requirements of paragraph 83 of Schedule 3 to the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006 (gifts) or paragraph 81 of Schedule 3 to the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006 (gifts), as the case may be; and
- (d) if he or she is not a contractor, to comply with those requirements as though he or she were a contractor.

#### Textual Amendments

- F8** Words in Pt. 4 substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **8**
- F21** Words in reg. 30(2)(b)(i) inserted (1.12.2020) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2020 \(S.I. 2020/1207\)](#), regs. 1(2), **3(2)**
- F22** Reg. 30(2)(b)(ii) substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **10(2)**
- F23** Reg. 30(2)(b)(iii) substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **10(3)**

#### [<sup>F24</sup>Application for inclusion in a dental performers list by a dentist already listed on a dental performers list of a primary care organisation

**30A.**—(1) In addition to providing the information required by regulation 4A(2), the dentist when making an application for inclusion of the dentist's name in a dental performers list whilst that dentist is included in a dental performers list with a primary care organisation shall give the information required by paragraph 1(b), (c), (d), (e), (f) and (g) of regulation 30.

(2) In addition to the undertakings required by regulation 4A(3), the dentist shall give the further undertakings as required by paragraph (2) of regulation 30.

(3) If the dentist is an armed forces dentist included in a list held by a primary care organisation, the dentist shall not be required to give an undertaking as required by regulation 4(3), as further specified in regulation 4(3)(e).

(4) A dentist may not withdraw an application made under this regulation whilst a Local Health Board is deciding that application.

(5) The dentist shall provide all necessary authority to enable a request to be made by the Local Health Board to the primary care organisation, for information relating to the dentist's dental qualifications (including where they were obtained), and evidence concerning the dentist's qualifications and experience.]

#### Textual Amendments

- F24** Reg. 30A inserted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **10(4)**

#### Additional grounds for refusal

**31.**—(1) In addition to the grounds in regulation 6(1), a Local Health Board may also refuse to admit a dentist to its dental performers list if—

- (a) having checked the information he or she provided under regulation 30(1), it considers he or she is unsuitable to be included in its list;
- (b) his or her registration in the dentists register is subject to conditions—
- (i) imposed by the Health Committee under section 28 of the Dentists Act (powers of the Health Committee), or
  - (ii) after the coming into force of the 2005 Order, imposed by a Practice Committee under sections 27B(6)(c) (Practice Committees), 27C(1)(c), (2)(b) or (c) (resumed hearings) or 28(6)(b) of that Act (restoration to register);

- (c) after the coming into force of the 2005 Order, he or she is subject to an order for immediate conditional registration imposed by a Practice Committee under section 30(2) of that Act (orders for immediate suspension and immediate conditional registration); or
  - (d) after the coming into force of the 2005 Order, he or she is subject to an order for interim conditional registration imposed by a Practice Committee or the Interim Orders Committee under section 32(4)(b) or (6)(c) or by the Court under section 32(9) of that Act (interim orders).
- (2) In addition to the grounds in regulation 6(2), a Local Health Board will also refuse to admit a dentist to its dental performers list if—
- (a) he or she is a contractor and the relevant scheme is not one that lies within its area;
  - (b) he or she is included in the dental performers list of another Local Health Board, unless he or she has given notice to that Board that he or she wishes to withdraw from that list; or
  - <sup>F25</sup>(c) he or she is not undertaking foundation training and had neither satisfactorily completed foundation training nor is exempt under paragraph (5) from the requirement to undertake foundation training.]
- (3) For the purposes of regulation 6(2)(d), the day prescribed in this Part is 26 August 2002.
- (4) In addition to checking the information provided by the dentist as required by regulation 6(3)(a), the Local Health Board will also check the information he or she provided under regulation 30(1).
- (5) A dentist is exempt from the requirement to undertake <sup>F8</sup>[foundation training] if—
- (a) he or she is registered as a dentist by virtue of <sup>F26</sup>section 15(1)(c) of the Dentists Act (any person who holds a recognised overseas diploma) within the meaning given in section 15(2) and (2ZA) of that Act]; or
  - (b) he or she has experience in primary care as a dentist for a total period of at least two years full-time or an equivalent period part-time—
    - (i) in community dental service,
    - (ii) in the armed forces of the Crown, or
    - (iii) prior to 1 April 2006, in the performance of personal dental services,and part or all of that period fell within the period of four years beginning with the date of his or her application under regulation 4.

#### Textual Amendments

- F8** Words in Pt. 4 substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **8**
- F25** Reg. 31(2)(c) substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **11(2)**
- F26** Words in reg. 31(5)(a) substituted (7.3.2022) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) \(EU Exit\) Regulations 2022 \(S.I. 2022/106\)](#), regs. 1, **2**

#### Grounds for removal from a dental performers list

**32.**—(1) Subject to paragraph (2) and in addition to the grounds in regulation 10(1), the Local Health Board must remove a dentist from its dental performers list where it becomes aware that he or she—

- (a) is the subject of—
  - (i) a determination by the Professional Conduct Committee to suspend him or her under section 27 of the Dentists Act (erasure or suspension), or



- (ii) after the coming into force of the 2005 Order, a direction of a Practice Committee under section 27B(6)(b) or 27C(2)(d) or (3) of that Act;
  - (b) is included in the dental performers list of another Local Health Board; or
  - [<sup>F27</sup>(c) has failed to satisfactorily complete foundation training and has not withdrawn from the list pursuant to regulation 30(2)(b)(ii).]
- (2) Paragraph (1)(a)(ii) will not apply where a direction that a dentist's registration be suspended is made in a health case.
- (3) For the purposes of regulation 10(1)(b), the day prescribed in this Part is 26 August 2002.
- (4) In calculating the period of 12 months under regulation 10(7) (periods to be disregarded), the Local Health Board will disregard any period during which the dentist's registration or his or her entitlement to practise as such was suspended by—
- (a) the Health Committee under section 28(1)(a) or (3)(a) of the Dentists Act (powers of the Health Committee);
  - (b) the Preliminary Proceedings Committee under section 32(1) of that Act (orders for interim suspension);
  - (c) after the coming into force of the 2005 Order, by a Practice Committee under sections 27B (6)(b) (Practice Committee) or 27C(1)(b) or (d) (resumed hearings) of that Act in a health case; or
  - (d) after the coming into force of the 2005 Order, by a Practice Committee or the Interim Orders Committee of the General Dental Council under section 32(4)(a) or (6)(d) of that Act or by the court under section 32(9) of that Act.

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**Textual Amendments**

**F27** Reg. 32(1)(c) substituted (1.3.2016) by [The National Health Service \(Performers Lists\) \(Wales\) \(Amendment\) Regulations 2016 \(S.I. 2016/101\)](#), regs. 1(2), **12(2)**

**Additional decision that may be appealed**

**33.** A dentist may also appeal, under regulation 15, against a decision of the Local Health Board to refuse to include his or her name in its dental performers list under regulation 31(1).]



**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Performers Lists) (Wales) Regulations 2004, PART 4.