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STATUTORY INSTRUMENTS

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**2013 No. 335**

**The National Health Service (Performers Lists) (England) Regulations 2013**

**PART 1**

General Provisions as to Performers Lists

**Decisions and grounds for refusal**

7.—(1) [<sup>F1</sup>NHS England]—

- (a) may refuse to include a Practitioner in a performers list on the grounds set out in paragraph (2);
- (b) must refuse to do so on the grounds set out in paragraph (4).

(2) The grounds on which [<sup>F1</sup>NHS England] may refuse to include a Practitioner in a performers list are, in addition to those prescribed in the relevant Part, that—

- (a) it considers the Practitioner is unsuitable to be included in the performers list having considered the information and documentation provided under regulation 4(2) and—
  - (i) in the case of a medical practitioner, regulation 26,
  - (ii) in the case of a dental practitioner, regulation 33, and
  - (iii) in the case of an ophthalmic practitioner, regulation 39;
- (b) having considered any declaration required by regulation 4(5) and (if applicable) regulation 4(7), and any information provided under regulation 4(6) or (8) in connection with any such declaration, and any other information or documents in its possession relating to the Practitioner, it considers that the Practitioner is unsuitable to be included in a performers list;
- (c) having obtained references from the referees named by the Practitioner [<sup>F2</sup>, where the Practitioner is required to name referees] under regulation 4(2)(f), it is not satisfied with those references;
- (d) having checked with the [<sup>F3</sup>NHS Counter Fraud Authority] for any facts that [<sup>F1</sup>NHS England] considers relevant relating to any past or current fraud investigation involving or relating to the Practitioner, and, having considered these and any other facts in its possession relating to such matters, it considers that the Practitioner is unsuitable to be included in a performers list;
- (e) the Practitioner has been convicted in the United Kingdom of any criminal offence (other than murder), committed on or after the day prescribed in the relevant Part, and has been sentenced to a term of imprisonment (whether suspended or not) of over six months;
- (f) having checked with the NHSLA for any facts that [<sup>F1</sup>NHS England] considers relevant relating to any past or current investigation or proceedings involving or relating to the Practitioner, and, having considered these and any other facts in its possession involving

or relating to the Practitioner, it considers that the Practitioner is unsuitable to be included in a performers list; or

- (g) it considers that there are reasonable grounds for concluding that including the Practitioner in a performers list would be prejudicial to the efficiency of the services which those included in that list perform.

(3) Where [<sup>F1</sup>NHS England] is considering a refusal of a Practitioner's application under a ground contained in paragraph (2) it must, in particular, take into consideration—

- (a) the nature of any matter in question;
- (b) the length of time since that matter and the events giving rise to it occurred;
- (c) any action or penalty imposed by any regulatory or other body as a result of that matter;
- (d) the relevance of that matter to the Practitioner's performance of the services which those included in the relevant performers list perform, and any likely risk to the Practitioner's patients or to public finances;
- (e) whether any offence was a sexual offence for the purposes of Part 2 of the Sexual Offences Act 2003 (notification and orders) <sup>M1</sup>, or which if it had been committed in England and Wales, would have been such an offence;
- (f) whether, in respect of any list, the Practitioner—
- (i) was refused inclusion in it,
  - (ii) was included in it subject to conditions,
  - (iii) was removed from it, or
  - (iv) is currently suspended from it,

and, if so, the facts relating to the matter which led to such action together with the reasons given by the holder of the list; and

- (g) whether, in respect of any list, the Practitioner was at the time of the originating event or in the six months preceding that event, a director of a body corporate, which—
- (i) was refused inclusion in it,
  - (ii) was included in it subject to conditions,
  - (iii) was removed from it, or
  - (iv) is currently suspended from it,

and, if so, the facts relating to that event and the reasons given for such action by the holder of the list.

(4) The grounds on which [<sup>F1</sup>NHS England] must refuse to include a Practitioner in a performers list are, in addition to any prescribed in the relevant Part, that—

- (a) the Practitioner has not provided satisfactory evidence that the Practitioner intends to perform the services which those included in that performers list perform;
- (b) it is not satisfied that the Practitioner has sufficient knowledge of the English language necessary for the work which those included in that performers list perform;
- (c) the Practitioner has been convicted in the United Kingdom of murder;
- (d) the Practitioner is subject to a national disqualification which disqualifies the Practitioner from inclusion in that performers list;
- (e) in a case to which regulation 8(4) applies, the Practitioner has not updated the Practitioner's application in accordance with the requirements of that regulation;
- (f) in a case to which regulation 10(5) applies, the Practitioner has not given the notification and undertaking required by that regulation; or

(g) in a case to which regulation 17(5) applies, the Practitioner has not notified [F<sup>1</sup>NHS England] under that regulation that the Practitioner wishes to be included in the performers list subject to its conditions.

(5) Paragraph (4)(a) does not apply in the case of a Type 1 armed forces GP [F<sup>4</sup> or a Type 2 armed forces GP].

(6) Where [F<sup>1</sup>NHS England] has made a decision on a Practitioner's application for inclusion in a performers list, it must notify the Practitioner within 7 days of—

- (a) its decision; and
- (b) if it has decided not to include the Practitioner, the reasons for that decision (including any facts relied upon) and the Practitioner's right of appeal under regulation 17.

(7) Where [F<sup>1</sup>NHS England] notifies a Practitioner under paragraph (6)(b), it must—

- (a) notify the Practitioner that the right of appeal must be exercised within the period of 28 days beginning with the date on which it notified the Practitioner of its decision; and
- (b) tell the Practitioner how to exercise that right.

#### Textual Amendments

- F1** Words in Instrument substituted (6.11.2023) by [The Health and Care Act 2022 \(Further Consequential Amendments\) \(No. 2\) Regulations 2023 \(S.I. 2023/1071\)](#), reg. 1(1), **Sch. para. 1**
- F2** Words in [reg. 7\(2\)\(c\)](#) inserted (18.9.2023) by [The National Health Service \(Performers Lists\) \(England\) \(Amendment\) \(No. 2\) Regulations 2023 \(S.I. 2023/828\)](#), regs. 1(1), **7(a)**
- F3** Words in [reg. 7\(2\)\(d\)](#) substituted (1.11.2017) by [The NHS Counter Fraud Authority \(Investigatory Powers and Other Miscellaneous Amendments\) Order 2017 \(S.I. 2017/960\)](#), arts. 1(1), **4(4)(c)**
- F4** Words in [reg. 7\(5\)](#) inserted (18.9.2023) by [The National Health Service \(Performers Lists\) \(England\) \(Amendment\) \(No. 2\) Regulations 2023 \(S.I. 2023/828\)](#), regs. 1(1), **7(b)**

#### Marginal Citations

- M1** [2003 c. 42.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Performers Lists) (England) Regulations 2013, Section 7.