

SCHEDULES

SCHEDULE 1

Regulation 22

Emergency Registered Practitioners

Disapplication of provisions with regard to emergency registered practitioners

1.—(1) Regulations 7, 26 and 27 do not apply to applications made during a period of emergency for inclusion of an emergency registered practitioner in the medical performers list.

(2) Regulation 28 does not apply in respect of the removal of an emergency registered practitioner from the medical performers list.

Modification of regulation 4: applications relating to emergency registered practitioners

2.—(1) Regulation 4 applies in respect of an application made during a period of emergency for inclusion of an emergency registered practitioner in the medical performers list as if—

- (a) paragraph (2)(f), (i) and (m);
- (b) paragraph (3)(d), (e) and (f); and
- (c) paragraphs (4) and (5),

were omitted.

(2) In addition to the information required by regulation 4, as modified by sub-paragraph (1) of this paragraph, the following must be supplied with an application referred to in that sub-paragraph—

- (a) details of the dates when the medical practitioner was previously included in a medical performers list and, where this relates to inclusion in a list prior to the transfer date, details of the Primary Care Trust whose list the Practitioner was included in;
- (b) the medical practitioner's professional registration number; and
- (c) an enhanced criminal record certificate under section 113B of the Police Act 1997 (enhanced criminal record certificates)⁽¹⁾ which includes suitability information relating to children and suitability information relating to vulnerable adults under sections 113BA (suitability information relating to children) and 113BB (suitability information relating to adults) of that Act⁽²⁾ respectively or, if none is supplied with the application, an undertaking—
 - (i) if it has not already been applied for, to apply for such a certificate within 7 days, and

(1) 1997 c. 50. Section 113B was inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 163(2). It was amended by: the Safeguarding Vulnerable Groups Act 2006 (c. 47), section 63(1) and Schedule 9, Part 2, paragraph 14; the Armed Forces Act 2006 (c. 52), section 378 and Schedule 16, paragraph 149; the Protection of Vulnerable Groups (Scotland) Act 2007 (2007 asp 14), sections 79 and 80; the Policing and Crime Act 2009 (c. 26), sections 97 and 112 and Schedule 8, Part 8; S.I. 2009/203; S.I. 2010/146; the Protection of Freedoms Act 2012 (c. 9), sections 79, 80, 82 and 115 and Schedule 10, Parts 5 and 6; and S.I. 2012/3006.

(2) Sections 113BA and 113BB were inserted in relation to England, Wales and Northern Ireland by the Safeguarding Vulnerable Groups Act 2006 (c. 47), section 63 and Schedule 9, Part 2, paragraph 14. An alternative section 113BA was inserted in relation to Scotland by the Criminal Justice and Licensing (Scotland) Act 2010 (2010 asp 13), section 108. Section 113BA was amended in relation to England, Wales and Northern Ireland by the Education and Inspections Act 2006 (c. 40), sections 170 and 173 and by the Protection of Freedoms Act 2012 (c. 9), section 115 and Schedule 9, Part 6, paragraphs 35 and 38 and Schedule 10, Part 5. Section 113BB was amended by the Protection of Freedoms Act 2012 (c. 9), section 115 and Schedule 9, Part 6, paragraphs 35 and 39 and Schedule 10, Part 5.

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(ii) to provide that certificate to the Board within 7 days of receiving it.

(3) The Board must refuse to include a medical practitioner in the medical performers list pursuant to an application referred to in sub-paragraph (1) if the medical practitioner is not an emergency registered practitioner.

Modification of regulation 5: consideration of applications

3. Regulation 5 applies in respect of an application made during a period of emergency for inclusion of an emergency registered practitioner in the medical performers list as if paragraphs (2) to (4) were omitted.

Modification of regulation 14: removal of emergency registered practitioners

4.—(1) The grounds in regulation 14 for the removal by the Board of a Practitioner from its performers list apply in respect of the removal of an emergency registered practitioner from its medical performers list as if—

- (a) paragraph (2); and
- (b) paragraphs (5) to (11),

were omitted.

(2) In addition to the grounds specified in regulation 14(1), the Board must remove an emergency registered practitioner from the medical performers list where the emergency registered practitioner—

- (a) has not, on request, provided evidence to the Board that the certificate referred to in paragraph 2(2)(c) has been applied for (despite the undertaking to apply for the certificate); or
- (b) has not provided that certificate to the Board (despite the undertaking to provide it),

within the period specified in paragraph 2(2)(c).

(3) The Board may also remove an emergency registered practitioner from the medical performers list where it considers such removal to be justified, after having checked—

- (a) as far as reasonably practicable, the information provided with the application, in particular any information provided under regulation 4(5) or (7);
- (b) with the NHS Business Services Authority for relevant information relating to past or current fraud investigations involving or relating to the emergency registered practitioner and having considered these and any other facts in its possession relating to fraud involving or relating to the emergency registered practitioner; or
- (c) with the Secretary of State for any relevant information relating to past or current investigations or proceedings involving or relating to the emergency registered practitioner and having considered any other facts in its possession involving or related to the emergency registered practitioner.

(4) The Authority referred to in sub-paragraph (3)(b) or the Secretary of State must, in response to a request from the Board, supply to the Board any information the Authority or the Secretary of State consider relevant for the purposes of sub-paragraph (3)(b) or, as the case may be, (3)(c).

SCHEDULE 2

Regulation 45

Transitional and Savings Provisions

Interpretation

1. In this Schedule, “PCT” means a Primary Care Trust.

Decisions of PCTs

2. A decision of a PCT prior to the transfer date is, as from that date, to be treated as a decision of the Board.

Allocation of practitioners on previous lists

3. Each Practitioner who was included immediately before the transfer date in a medical, dental or ophthalmic performers list (as the case may be) held by a PCT is, with effect from that date, included in the corresponding list held by the Board.

Inclusion subject to conditions

- 4.—(1) This paragraph applies if, immediately before the transfer date, the inclusion of a Practitioner in a PCT’s medical, dental or ophthalmic performers list (as the case may be) was subject to conditions imposed by that PCT.

(2) If the conditions would have continued in force on the transfer date, the inclusion of that Practitioner in the relevant performers list held by the Board continues to be subject to those conditions as if they had been imposed in the same terms and for the same duration by the Board pursuant to regulation 10, 11, 12 or 16 and the Board is to be taken to have had the power to impose those conditions.

Suspended inclusion

- 5.—(1) This paragraph applies if, immediately before the transfer date, the inclusion of a Practitioner in a PCT’s medical, dental or ophthalmic performers list (as the case may be) was suspended by that PCT.

(2) From the transfer date, the inclusion of that Practitioner in the relevant performers list held by the Board is to be treated as if it had been suspended on the same terms and for the same duration by the Board (which is to be taken to have had the power to do so).

Outstanding applications for registration

- 6.—(1) This paragraph applies to an application made before the transfer date, but not by then determined, for inclusion in a medical, dental or ophthalmic performers list held by a PCT.

(2) Such an application is to be treated from the transfer date as having been made to the Board for inclusion in the relevant performers list held by the Board.

Readmission

7. A Practitioner who has, before the transfer date, been removed from a relevant performers list by the PCT which holds that list and who has not by then been restored to that list, may from that date be included, if the conditions specified in regulation 6 are met (as if the Practitioner had been removed from the list by the Board), in the corresponding relevant performers list held by the Board.

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Reviews

8. A decision of a PCT before the transfer date to impose or vary conditions on the inclusion of a Practitioner in a performers list or in relation to the suspension of a Practitioner from such a list, may as from that date be reviewed by the Board under regulation 16 as if the Board was reviewing a decision of its own under these Regulations.

Appeals

9.—(1) Sub-paragraph (2) applies where a Practitioner has, before the transfer date, appealed to the First-tier Tribunal against a decision of a PCT which has not, by then, been the subject of a decision by way of determination by that Tribunal.

(2) Any redetermination of a PCT's decision by the First-tier Tribunal on or after the transfer date is to take effect as if it were a redetermination of a decision of the Board.

(3) Where there has been a determination by the First-tier Tribunal before the transfer date, the Board may take any steps under these Regulations which it could have taken if the determination had occurred after that date.

National disqualification

10. Regulations 18A (national disqualification) and 19 (review periods on national disqualification) of the National Health Service (Performers Lists) Regulations 2004 are to continue to apply for the purposes of any appeal or review relating to a national disqualification imposed under those provisions prior to the transfer date.