
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Medical Profession (Responsible Officers) Regulations 2010 ([S.I. 2010/2841](#)) (“the 2010 Regulations”).

Regulation 2 makes amendments to the definition of “NHS body” which is consequential on the changes made to designated bodies in the Schedule. Further definitions are also added to the 2010 Regulations.

Regulation 3(2) makes changes to the duty to nominate a responsible officer. The National Health Service Commissioning Board (“the Board”) has a duty to appoint a sufficient number of responsible officers to ensure that each responsible officer so appointed has the capacity to carry out their duties under regulations 11 and 13 of the 2010 Regulations. Where a responsible officer appointed by the Board ceases to hold that position the Board are only required to nominate a replacement officer if they do not consider they have a sufficient number already appointed. All other designated bodies are required to appoint one responsible officer, unless they are bodies designated under Part 2 of the Schedule to the 2010 Regulations, in which case they are only required to appoint a responsible officer if they have a connection under regulation 10 with any medical practitioner. The effect of the amended regulation 5(6) provides that where a medical practitioner would have had a connection with a body under regulation 10 but for the fact that they were appointed as a responsible officer and therefore have a connection under regulation 12, regulation 5(5) will not apply so that the designated body is required to appoint a responsible officer in those circumstances.

Regulation 3(3) is a consequential amendment which enables the Secretary of State to nominate a responsible officer to the Board where the Board have failed to appoint a sufficient number of responsible officers.

Regulation 3(4) makes further connections between designated bodies and medical practitioners. It also amends the connection between private hospitals and medical practitioners with practising privileges so that the connection is only made where the medical practitioner is treating patients in the hospital. It also makes provision where a medical practitioner is a member of more than one body under regulation 10(1)(g) of the 2010 Regulations so that the medical practitioner is connected to the body with which they has been a member for the longest period.

Regulations 3(5) and 3(7) make provision for the Board to determine the division of responsibilities under regulations 11 and 13 respectively of the 2010 Regulations for each responsible officer.

Regulation 3(6) amends regulation 12 of the 2010 Regulations which prescribes the connections between designated bodies and medical practitioners who are responsible officers. A responsible officer nominated by any non-departmental public body in England, except the Board, or any Government department or executive agency of a Government Department in England, will be connected to the Department of Health; a responsible officer nominated by Local Education and Training Boards will be connected to Health Education England; a responsible officer who holds the post of NHS Medical Director or NHS Deputy Medical Director of the Board will be connected to the Faculty of Medical Leadership and Management; a responsible officer nominated by any other body in England will be connected to the Board; a responsible officer nominated by a body in Scotland will be connected to the Scottish Ministers; and a responsible officer nominated by a body in Wales will be connected to the Welsh Ministers. This regulation also prescribes that the Faculty of Medical Leadership and Management does not have a prescribed connection to a designated body under the 2010 Regulations.

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

Regulation 4 amends regulation 16 of the 2010 Regulations which imposes additional responsibilities on responsible officers in England. Regulation 4(2) places an additional duty on responsible officers to ensure that medical practitioners for whom they are responsible have sufficient knowledge of the English language necessary for the work to be performed in a safe and competent manner. Regulation 4(2) also makes a consequential amendment to regulation 16(2)(d) so that responsible officers at the Board will be responsible for managing the admission of medical practitioners to the performers list.

Regulation 4(3) amends regulation 18 (guidance) of the 2010 Regulations. A consequential amendment is made to paragraph (b) to reflect the transfer of functions of the National Clinical Assessment Service, from the Institute for Health and Clinical Excellence to the National Health Service Litigation Authority, on the 1st April 2013. An additional provision is inserted which requires responsible officers to have regard to guidance given by the Board in relation to responsible officers duties in respect of language knowledge.

Regulation 5 amends Part 1 of the Schedule to the 2010 Regulations. Primary Care Trusts has been substituted with the Board; Strategic Health Authority has been omitted; Ambulance Trusts have been omitted from Part 1 of the Schedule and added to Part 2 of the Schedule with the effect that Ambulance Trusts will only be required to appoint a responsible officer if they employ one or more medical practitioners and have a connection with a medical practitioner under regulation 10; Local Education and Training Boards and the Pathology Delivery Board have been added as designated bodies under Schedule 1.

Regulation 6 amends Part 2 of the Schedule to the Regulations. Organisations which are engaged in providing the services of medical practitioners to work as resident medical officers in independent hospitals, and organisations which provide medical defence services to medical practitioners in respect of claims for medical negligence or professional misconduct, have been prescribed as designated bodies under Part 2. Ambulance Trusts, the British College of Aesthetic Medicine, and the Faculty of Homeopathy have also been prescribed as designated bodies under Part 2. Paragraph 20(b) of the Schedule is amended to substitute the NHS Purchasing and Supply Agency's national framework agreement with the new Framework Agreement for the supply of medical locums.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available from the Department of Health, Skipton House, 80 London Road, London, SE1 6LH and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk