
WELSH STATUTORY INSTRUMENTS

2004 No. 1016

**The General Medical Services Transitional and
Consequential Provisions (Wales) (No. 2) Order 2004**

PART 5

**TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS
RELATING TO OUT OF HOURS ARRANGEMENTS AND SERVICES**

**Refusal of approval of out of hours arrangements under general medical services contracts
and default contracts**

60.—(1) Where—

- (a) on or before 31st March 2004, a Local Health Board had notified a medical practitioner under paragraph 18A(10) of Schedule 2 to the 1992 Regulations that it had refused approval of an out of hours arrangement; and
- (b) on or before 1st April 2004, that medical practitioner—
 - (i) has entered as an individual medical practitioner into a general medical services contract, or a default contract, which requires the provision of out of hours services,
 - (ii) is one of two or more individuals practising in partnership who have entered into such a contract, or
 - (iii) is a legal and beneficial shareholder in a company which has entered into such a general medical services contract,

paragraphs (2) and (3) shall apply.

(2) In a case where the time for appealing under paragraph 18A(11) of Schedule 2 to the 1992 Regulations had not expired on or before 31st March 2004, that refusal shall be treated as if it were a refusal under the term of the general medical services contract referred to in paragraph (1)(b) which gives effect to paragraph 2 of Schedule 7 to the 2004 Regulations (or under the equivalent term of the default contract), subject to the modification that the 30 days referred to in the term of the general medical services contract giving effect to paragraph 2(5) of that Schedule (or in the equivalent term of the default contract) shall be treated as beginning with the day on which the Local Health Board's notification under paragraph 18A(10) was sent.

(3) In a case where, on 31st March 2004, an appeal had been made under paragraph 18A(11) of Schedule 2 to the 1992 Regulations but not yet been determined or withdrawn, that appeal shall continue to be dealt with as if paragraph 18A had not been revoked and, if the appeal is successful, the approval of the arrangement shall be treated as an approval given under the term of the general medical services contract referred to in paragraph (1)(b) which gives effect to paragraph 2 of Schedule 7 to the 2004 Regulations (or under the equivalent term of the relevant default contract).

(4) The circumstances referred to in paragraph (3) are that the appeal related to an arrangement with a transferee doctor as defined in paragraph 18A(1)(c) of Schedule 2 to the 1992 Regulations and that doctor—

- (a) has not entered as an individual medical practitioner into a general medical services contract, or a default contract, which includes the provision of out of hours services;
 - (b) is not one of two or more individuals practising in partnership who have entered into such a contract;
 - (c) is not a legal and beneficial shareholder in a company which has entered into such a general medical services contract; or
 - (d) is not a party to contractual arrangements under article 15 of the Transitional Order which include the provision of out of hours services.
- (5) For the purposes of a dispute pursuant to paragraph (2) or an appeal dealt with pursuant to paragraph (3), the application which is the subject of the dispute or appeal shall be read as if—
- (a) any references to the patients of the medical practitioner were references to the patients of the general medical services contractor or the default contractor;
 - (b) any references to the whole of the out of hours period were references to—
 - (i) the period beginning at 6.30pm on any day from Monday to Thursday and ending at 8am on the following day,
 - (ii) the period between 6.30pm on Friday and 8am the following Monday, and
 - (iii) Good Friday, Christmas Day and bank holidays;
 - (c) in any reference to part of the out of hours period—
 - (i) any reference to 7pm on Monday to Friday were a reference to 6.30pm, and
 - (ii) any reference to 1pm on Saturday were a reference to 6.30pm on Friday; and
 - (d) any references to a particular transferee doctor were references to—
 - (i) that person as a general medical services contractor, a default contractor or a party to contractual arrangements made under article 15 of the Transitional Order;
 - (ii) that person and any other medical practitioner with whom he or she is practising in partnership who have entered in to a general medical services contract or a default contract or are a party to contractual arrangements made under article 15 of the Transitional Order; or
 - (iii) the company in which he or she is a legal and beneficial shareholder and which has entered into a general medical services contract.