



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 3039 (Cy.227)

2005 No. 3039 (W.227)

**Y GWASANAETH IECHYD
GWLADOL, CYMRU**

**NATIONAL HEALTH
SERVICES, WALES**

Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Penodi Ymgynghorwyr)
(Cymru) (Diwygio)
2005

National Health Service
(Appointment of Consultants)
(Wales) (Amendment) Regulations
2005

NODYN ESBONIADOL

EXPLANATORY NOTE

(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Penodi Ymgynghorwyr) (Cymru) 1996 ("Rheoliadau 1996").

These Regulations amend the National Health Service (Appointment of Consultants) (Wales) Regulations 1996 ("the 1996 Regulations").

Mae Rheoliadau 2, 3 a 5 yn gwneud nifer o ddiwygiadau sy'n cymhwyso darpariaethau Rheoliadau 1996 i ymddiriedolaethau'r GIG, ynghyd â nifer o fân ddiwygiadau eraill.

Regulations 2, 3 and 5 make a number of amendments which apply the provisions of the 1996 Regulations to NHS trusts, together with a number of other minor amendments.

Mae Rheoliad 3(5) yn creu dau esemptiad newydd rhag y gofyniad bod rhaid cynnal Pwyllgor Ymgynghorol ar Benodiadau i benodi ymgynghorydd. Mae'r esemptiad cyntaf yn gymwys i berson sydd wedi bod mewn swydd fel ymgynghorydd gyda gwasanaethau meddygol y fyddin, y llynges neu'r llu awyr ac sy'n cael ei benodi i swydd ymgynghorydd yn un o'r cyrff y mae Rheoliadau 1996 yn gymwys iddynt a hynny heb symud ei leoliad a heb fod y dyletswyddau sydd ynghlwm wrth y swydd yn newid mewn unrhyw ffordd sydd o bwys. Mae'r ail esemptiad yn gymwys i ymgynghorydd sy'n ymddeol ond sydd wedyn yn dychwelyd i swydd debyg iawn yn yr un corff, er y gall telerau ei gyflogaeth fod wedi'u newid.

Regulation 3(5) creates two new exemptions from the requirement that an Advisory Appointments Committee must be held to appoint a consultant. The first exemption applies to a person who has been in post as a consultant with the medical services of the army, navy or air force and is appointed to a consultant post in one of the bodies to whom the 1996 Regulations apply without moving location and without the duties involved in the post altering in any significant way. The second exemption applies to a consultant who retires but then returns to a very similar post in the same body, albeit that the terms of his or her employment may have altered.

Mae Rheoliad 4 yn caniatáu i un o'r hysbysebion ar gyfer penodi ymgynghorydd fod ar ffurf electronig.

Regulation 4 allows one of the advertisements for a consultant appointment to be in electronic form.

Mae Rheoliad 5 yn nodi'r union ofynion ar gyfer aelodaeth Pwyllgor Ymgynghorol ar Benodiadau pan fo dau gorff neu fwy y mae Rheoliadau 1996 yn gymwys iddynt yn cydweithredu i sefydlu Cydbwyllgor Ymgynghorol ar Benodiadau.

Regulation 5 sets out the exact requirements for the constitution of an Advisory Appointments Committee where two or more bodies to whom the 1996 Regulations apply act together to establish a joint Advisory Appointments Committee.

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GWLADOL, CYMRU****NATIONAL HEALTH
SERVICE, WALES****Rheoliadau'r Gwasanaeth Iechyd
Gwladol (Penodi Ymgynghorwyr)
(Cymru) (Diwygio)
2005****National Health Service
(Appointment of Consultants)
(Wales) (Amendment) Regulations
2005***Wedi'u gwneud* 1 Tachwedd 2005
Yn dod i rym 2 Tachwedd 2005*Made* 1 November 2005
Coming into force 2 November 2005

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd gan adran 126(4) o Ddeddf y Gwasanaeth Iechyd Gwladol 1977 ("Deddf 1977")(1) a pharagraffau 10(1) a 12(b) o Atodlen 5 iddi a pharagraffau 6(1)(d), 9(2) a (3) o Atodlen 5B iddi, ac adran 5(7)(f) o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990 ("Deddf 1990")(2) a pharagraffau 16(4) a 16(5) o Atodlen 2 iddi, ac ar ôl ymgynghori yn unol â pharagraff 11(1) o Atodlen 5, a pharagraff 9(4) o Atodlen 5B, i Ddeddf 1977 a pharagraff 16(6) o Atodlen 2 i Ddeddf 1990, â chyrff y mae'n eu cydnabod fel rhai sy'n cynrychioli personau y mae'n debyg yr effeithir arnynt, drwy hyn yn gwneud y Rheoliadau canlynol:

The National Assembly for Wales, in exercise of the powers conferred by section 126(4) of, paragraphs 10(1) and 12(b) of Schedule 5 to and paragraphs 6(1)(d), 9(2) and (3) of schedule 5B to, the National Health Service Act 1977 ("the 1977 Act")(1) and section 5(7)(f) of, and paragraphs 16(4) and 16(5) of Schedule 2 to, the National Health Service Community Care Act 1990 ("the 1990 Act")(2), and after consultation in accordance with paragraph 11(1) of Schedule 5, and paragraph 9(4) of Schedule 5B to, the 1977 Act and paragraph 16(6) of Schedule 2 to the 1990 Act with bodies recognised by it as representing persons likely to be affected, hereby makes the following Regulations:

- (1) 1977 (p.49). Diwygiwyd adran 126(4) gan adran 65(2) o Ddeddf y Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990 (p.19) ("Deddf 1990"), adran 65(1) o Ddeddf Iechyd 1999 (p.8) ("Deddf 1999") a pharagraffau 4 a 37 o Atodlen 4 iddi, adran 67(1) o Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p.15) ("Deddf 2001") a pharagraffau 5 a 13 o Ran 1 o Atodlen 5 iddi, ac adran 6(3)(c) a 37(1) o Ddeddf Diwygio'r Gwasanaeth Iechyd Gwladol a Phroffesiynau Gofal Iechyd 2002 (p.17) ("Deddf 2002"). Diwygiwyd paragraff 10(1) o Atodlen 5 gan adran 14 o Ddeddf Iechyd a Gwasanaethau Cymdeithasol a Dyfarniadau Nawdd Cymdeithasol 1983 (p.41) a pharagraff 3 o Atodlen 6 iddi, adrannau 5 a 24 o Ddeddf Iechyd a Nawdd Cymdeithasol 1984 (p.48) a Rhan I o Atodlen 8 iddi, adran 2(1) o Ddeddf Awdurdodau Iechyd 1995 (p.17) ("Deddf 1995") a pharagraff 60(c) o Atodlen 1 iddi, ac adrannau 6(1)(a) a (b) o Ddeddf 2001. Diwygiwyd paragraff 12(b) o Atodlen 5 gan adran 1 o Ddeddf 1990, a pharagraff 9 o Ran III o Atodlen 1 iddi, adrannau 2(1) a 5(1) o Ddeddf 1995 a pharagraff 60(e) o Atodlen 1 iddi, ac Atodlen 3 iddi, ac adran 65(1) o Ddeddf 1999, a pharagraffau 4, 39(1) a (4)(b) o Atodlen 4 iddi. Mewnosodwyd Atodlen 5B gan adran 6(2) o Ddeddf 2002 ac Atodlen 4 iddi. Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan y darpariaethau hyn, i'r graddau yr oeddent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan erthygl 2(a) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672, fel y'i diwygiwyd gan adran 66(5) o Ddeddf 1999).
- (2) 1990 (p.19). Diwygiwyd adran 5(7) gan adran 2(1) o Ddeddf Awdurdodau Iechyd 1995 (p.17) a pharagraff 69(d) o Atodlen 1 iddi. Mewnosodwyd paragraffau 16(4)-(6) o Atodlen 2 gan adran 6(3)(b) o Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p.15).

- (1) 1977 (c.49). Section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), section 65(1) of, and paragraphs 4 and 37 of Schedule 4 to, the Health Act 1999 (c.8) ("the 1999 Act"), section 67(1) of, and paragraphs 5 and 13 of Part 1 of Schedule 5 to, the Health and Social Care Act 2001 (c.15) ("the 2001 Act"), and section 6(3)(c) and 37(1) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) ("the 2002 Act"). Paragraph 10(1) of Schedule 5 was amended by section 14 of, and paragraph 3 of Schedule 6 to, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), sections 5 and 24 of, and Part I of Schedule 8 to, the Health and Social Security Act 1984 (c.48), section 2(1) of, and paragraph 60(c) of Schedule 1 to, the Health Authorities Act 1995 (c.17) ("the 1995 Act"), and sections 6(1)(a) and (b) of the 2001 Act. Paragraph 12(b) of Schedule 5 was amended by section 1 of, and paragraph 9 of Part III of Schedule 1 to, the 1990 Act, sections 2(1) and 5(1) of, and paragraph 60(e) of schedule 1 to, and Schedule 3 to, the 1995 Act, and section 65(1) of, and paragraphs 4, 39(1) and (4)(b) of Schedule 4 to, the 1999 Act. Schedule 5B was inserted by section 6(2) of, and Schedule 4 to the 2002 Act. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, as amended by section 66(5) of the 1999 Act).
- (2) 1990 (c.19). Section 5(7) was amended by section 2(1) of, and paragraph 69(d) of Schedule 1 to, the Health Authorities Act 1995 (c.17). Paragraphs 16(4)-(6) of Schedule 2 were inserted by section 6(3)(b) of the Health and Social Care Act 2001 (c.15).

Enwi, cychwyn, cymhwyso a dehongli

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Penodi Ymgynghorwyr) (Cymru) (Diwygio) 2005 ac maent yn dod i rym ar 2 Tachwedd 2005.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) Yn y Rheoliadau hyn, ystyr "y prif Reoliadau" ("*the principal Regulations*") yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Penodi Ymgynghorwyr) (Cymru) 1996(1).

Diwygio rheoliad 2 o'r prif Reoliadau

2.-(1) Mae rheoliad 2 o'r prif Reoliadau (dehongli) wedi'i ddiwygio fel a ganlyn.

(2) O flaen y diffiniad o "application" mewnosoder y diffiniad canlynol-

""accredited as a consultant" means-

- (a) a person whose name is included in the register of specialists maintained by the General Medical Council pursuant to article 8 of the European Specialist Medical Qualifications Order 1995 (the specialist register); or
- (b) a person whose name is included in the register of specialists maintained by the General Medical Council pursuant to article 13 of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (the specialist register),

where that person has either been appointed as a consultant by an Armed Services Consultant Appointment Board or appointed to a consultant post with an Authority;"

(3) Yn y diffiniad o "Authority", ar ôl "Special Health Authority," mewnosoder "an NHS trust, a Local Health Board".

(4) Ar ôl y diffiniad o "core members" mewnosoder y diffiniad canlynol-

""Defence Medical Services" means the medical services of the air force, army and navy of the United Kingdom, whose function is to provide primary and secondary healthcare to service personnel and entitled civilians;"

(5) Yn y diffiniad o "lay member" dileer "or NHS trust".

(6) Mae'r diffiniad o "relevant college" wedi'i ddiwygio fel a ganlyn-

Title, commencement, application and interpretation

1.-(1) The title of these Regulations is the National Health Service (Appointment of Consultants) (Wales) (Amendment) Regulations 2005 which come into force on 2 November 2005.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations, "the principal Regulations" ("*y prif Reoliadau*") means the National Health Service (Appointment of Consultants) (Wales) Regulations 1996(1).

Amendment of regulation 2 of the principal Regulations

2.-(1) Regulation 2 of the principal Regulations (interpretation) is amended as follows.

(2) Before the definition of "application" insert the following definition-

""accredited as a consultant" means-

- (a) a person whose name is included in the register of specialists maintained by the General Medical Council pursuant to article 8 of the European Specialist Medical Qualifications Order 1995 (the specialist register); or
- (b) a person whose name is included in the register of specialists maintained by the General Medical Council pursuant to article 13 of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (the specialist register),

where that person has either been appointed as a consultant by an Armed Services Consultant Appointment Board or appointed to a consultant post with an Authority;"

(3) In the definition of "Authority", after "Special Health Authority," insert "an NHS trust, a Local Health Board".

(4) After the definition of "core members" insert the following definition-

""Defence Medical Services" means the medical services of the air force, army and navy of the United Kingdom, whose function is to provide primary and secondary healthcare to service personnel and entitled civilians;"

(5) In the definition of "lay member" delete "or NHS trust".

(6) The definition of "relevant college" is amended as follows-

(1) O.S. 1996/1313 fel y'i diwygiwyd gan O.S. 2003/1250.

(1) S.I. 1996/1313 as amended by S.I. 2003/1250.

- (a) ar ôl paragraff (e) mewnosoder "(ee) the Royal College of Paediatrics and Child Health,";
- (b) ar ôl paragraff (f) mewnosoder "(ff) the Royal College of Physicians and Surgeons of Glasgow,";
- (c) ym mharagraff (g) dileer y gair "or";
- (ch) ym mharagraff (h) ar ôl y gair "Radiologists," mewnosoder y gair "or"; a
- (d) ar ôl paragraff (h) mewnosoder "(i) the Royal College of Surgeons of Edinburgh,".

(7) Yn lle'r diffiniad o "relevant University" rhodder y canlynol-

""relevant University" means-

- (a) for an appointment to a Local Health Board any University associated with the provision of health services to that Board;
- (b) for an appointment to an NHS trust,
 - (i) in the case where a University is specified in the Establishment Order for the NHS trust in question, that University; or
 - (ii) in all other cases, any University with a department which teaches the relevant specialty;".

Diwygio rheoliad 5 o'r prif Reoliadau

3.-(1) Mae rheoliad 5 o'r prif Reoliadau (penodiadau esempt) wedi'i ddiwygio fel a ganlyn.

(2) Ym mharagraff (1), is-baragraff (d), dileer "an NHS trust,".

(3) Ym mharagraff (1), is-baragraff (e)(ii) yn lle "NHS trust" rhodder "Authority".

(4) Ym mharagraff (1), is-baragraff (g)-

- (a) yn lle "Public Health Laboratory Service Board" rhodder "the Health Protection Agency (Yr Asiantaeth Diogelu Iechyd) established by the Health Protection Agency Act 2004"(1);
- (b) yn lle "or that Board" rhodder "or Agency".

(5) Ar ôl paragraff (1)(g) mewnosoder-

"(h) a person who has been accredited as a consultant and has been appointed to a consultant post in the Defence Medical Services, and whose appointment to the staff of an Authority will be to a post in which the duties and location of the post are substantially the same as the duties and location of the post previously held in the Defence Medical Services;

- (a) after paragraph (e) insert "(ee) the Royal College of Paediatrics and Child Health,";
- (b) after paragraph (f) insert "(ff) the Royal College of Physicians and Surgeons of Glasgow,";
- (c) in paragraph (g) delete the word "or";
- (d) in paragraph (h) after the word "Radiologists," insert the word "or"; and
- (e) after paragraph (h) insert "(i) the Royal College of Surgeons of Edinburgh,".

(7) For the definition of "relevant University" substitute the following-

""relevant University" means-

- (a) for an appointment to a Local Health Board any University associated with the provision of health services to that Board;
- (b) for an appointment to an NHS trust,
 - (i) in the case where a University is specified in the Establishment Order for the NHS trust in question, that University; or
 - (ii) in all other cases, any University with a department which teaches the relevant specialty;".

Amendment of regulation 5 of the principal Regulations

3.-(1) Regulation 5 of the principal Regulations (exempt appointments) is amended as follows.

(2) In paragraph (1), sub-paragraph (d), delete "an NHS trust,".

(3) In paragraph (1), sub-paragraph (e)(ii) for "NHS trust" substitute "Authority".

(4) In paragraph (1), sub-paragraph (g)-

- (a) for "Public Health Laboratory Service Board" substitute "the Health Protection Agency (Yr Asiantaeth Diogelu Iechyd) established by the Health Protection Agency Act 2004"(1);
- (b) for "or that Board" substitute "or Agency".

(5) After paragraph (1)(g) insert-

"(h) a person who has been accredited as a consultant and has been appointed to a consultant post in the Defence Medical Services, and whose appointment to the staff of an Authority will be to a post in which the duties and location of the post are substantially the same as the duties and location of the post previously held in the Defence Medical Services;

- (i) a person whose last employment by an Authority was in post as a consultant, the termination of which employment was by reason of retirement and who is appointed to a consultant post in the same Authority without any significant alteration in the duties of the post."

Diwygio rheoliad 6 o'r prif Reoliadau

4. Ar ddiwedd paragraff (1) o reoliad 6 o'r prif Reoliadau (hysbysebu'r penodiad arfaethedig) mewnosoder ", and for these purposes only one of the publications may be solely in electronic form".

Diwygio Atodlen 1 i'r prif Reoliadau

5.-(1) Mae Atodlen 1 i'r prif Reoliadau (aelodaeth pwyllgor ymgynghorol ar benodiadau) wedi'i diwygio fel a ganlyn.

(2) Ym mharagraff 2 yn is-baragraff (b)(i) dileer "or".

(3) Ym mharagraff 2, ar ôl is-baragraff (b)(i), mewnosoder y canlynol-

- "(ia) in the case of a Local Health Board, a practitioner employed within the area of the Board making the appointment,
- (ib) in the case of an NHS Trust, a practitioner employed by the trust making the appointment, or".

(4) Ym mharagraff 3, hepgorer "substantial".

(5) Ar ddiwedd paragraff 6 mewnosoder

"and where they do so, the requirements of paragraph 2 apply with the following modifications-

- (a) the Authorities are to jointly select and appoint one member meeting the requirements of each of paragraphs 2(a) and (b);
- (b) where more than two Authorities act together as a single Authority, the Authorities are to each select and appoint at least one member meeting the requirements of each of paragraphs 2(c), (d) and (e);
- (c) where two Authorities act together as a single Authority, one of the Authorities is to select and appoint two members, and the other is to select and appoint one member, meeting the requirements respectively of each of paragraphs 2(c), (d) and (e)."

- (i) a person whose last employment by an Authority was in post as a consultant, the termination of which employment was by reason of retirement and who is appointed to a consultant post in the same Authority without any significant alteration in the duties of the post."

Amendment of regulation 6 of the principal Regulations

4. At the end of paragraph (1) of regulation 6 of the principal Regulations (advertisement of proposed appointment) insert ", and for these purposes only one of the publications may be solely in electronic form".

Amendment of Schedule 1 to the principal Regulations

5.-(1) Schedule 1 to the principal Regulations (constitution of an advisory appointments committee), is amended as follows.

(2) In paragraph 2 in sub-paragraph (b)(i) delete "or".

(3) In paragraph 2, after sub-paragraph (b)(i), insert the following-

- "(ia) in the case of a Local Health Board, a practitioner employed within the area of the Board making the appointment,
- (ib) in the case of an NHS Trust, a practitioner employed by the trust making the appointment, or".

(4) In paragraph 3, omit "substantial".

(5) At the end of paragraph 6 insert

"and where they do so, the requirements of paragraph 2 apply with the following modifications-

- (a) the Authorities are to jointly select and appoint one member meeting the requirements of each of paragraphs 2(a) and (b);
- (b) where more than two Authorities act together as a single Authority, the Authorities are to each select and appoint at least one member meeting the requirements of each of paragraphs 2(c), (d) and (e);
- (c) where two Authorities act together as a single Authority, one of the Authorities is to select and appoint two members, and the other is to select and appoint one member, meeting the requirements respectively of each of paragraphs 2(c), (d) and (e)."

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(1).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1).

1 Tachwedd 2005

1 November 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

OFFERYNNAU STATUDOL

2005 Rhif 3039 (Cy.227)

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