

WELSH STATUTORY INSTRUMENTS

2023 No. 953

The National Health Service (General Medical Services Contracts) (Wales) Regulations 2023

PROSPECTIVE

PART 2

Contractors: conditions and eligibility

Conditions: general

4. The Local Health Board may only enter into a contract if the conditions specified in regulations 5 and 6 are met.

Commencement Information

II Reg. 4 in force at 1.10.2023, see [reg. 1\(2\)](#)

Conditions relating solely to medical practitioners

- 5.—(1) Where the Local Health Board enters, or is proposing to enter into a contract with—
- (a) a medical practitioner, that medical practitioner must be a general medical practitioner;
 - (b) two or more persons practising in a partnership—
 - (i) at least one partner (who must not be a limited partner) must be a general medical practitioner, and
 - (ii) any other partner who is a medical practitioner must be—
 - (aa) a general medical practitioner, or
 - (bb) employed by a Local Health Board, (in England and Wales and Scotland) an NHS Trust, an NHS foundation trust, (in Scotland) a Health Board, or (in Northern Ireland) a Health and Social Care Trust; or
 - (c) a company limited by shares—
 - (i) at least one share in the company must be both legally and beneficially owned by a general medical practitioner, and
 - (ii) any other share or shares in the company that are legally and beneficially owned by a medical practitioner must be so owned by—
 - (aa) a general medical practitioner, or
 - (bb) a medical practitioner who is employed by a Local Health Board, (in England and Wales and Scotland) an NHS Trust, an NHS foundation trust,

Status: This version of this part contains provisions that are prospective.

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(in Scotland) a Health Board or, (in Northern Ireland) a Health and Social Care Trust.

(2) In paragraph (1)(a), (b)(i) and (c)(i) “general medical practitioner” does not include a medical practitioner whose name is included in the General Practitioner Register by virtue of being a medical practitioner to whom paragraph (3), (4) or (5) applies.

(3) This paragraph applies to a medical practitioner referred to in article 4(3) of the 2010 Order (general practitioners eligible for entry in the General Practitioner Register) who was exempt from the requirement to have the prescribed experience under—

- (a) regulation 5(1)(d) of the National Health Service (Vocational Training for General Medical Practice) Regulations 1997⁽¹⁾,
- (b) regulation 5(1)(d) of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998⁽²⁾, or
- (c) regulation 5(1)(d) of the National Health Service (Vocational Training) Regulations (Northern Ireland) 1998⁽³⁾.

(4) This paragraph applies to a medical practitioner who has an acquired right for the purposes of article 6(2) of the 2010 Order (persons with acquired rights) by virtue of—

- (a) having been a restricted services principal, and
- (b) that medical practitioner’s name being included, as at 31 December 1994, in—
 - (i) a medical list which was, at that date, kept by a Family Health Services Authority⁽⁴⁾, or
 - (ii) any corresponding list which was, at that date, kept by a Health Board or by the Northern Ireland Central Services Agency for the Health and Social Services in Northern Ireland.

(5) This paragraph applies to a medical practitioner who has an acquired right for the purposes of article 6(6) of the 2010 Order (which relates to persons engaged or provided as a deputy or employed as an assistant) because, on at least 10 days in the 4 years ending with 31 December 1994, or on at least 40 days in the 10 years ending with that date, that medical practitioner was—

- (a) engaged as a deputy by, or provided as a deputy to, a medical practitioner whose name was included in—
 - (i) the medical list which was, at that date, kept by a Family Health Services Authority, or
 - (ii) any corresponding list kept, at that date, by a Health Board or by the Northern Ireland Central Services Agency for the Health and Social Services in Northern Ireland, or
- (b) employed as an assistant (other than as a trainee general practitioner) by such a medical practitioner.

(6) In paragraph (4)(a), “restricted services principal” means a medical practitioner who provided general medical services limited to child health surveillance, contraceptive services, maternity medical services or minor surgery.

⁽¹⁾ S.I. 1997/2817, as amended by S.I. 1998/669 and revoked by S.I. 2003/1250.

⁽²⁾ S.I. 1998/5, as amended by S.I.1998/669 and S.S.I. 2000/23 and revoked by S.I. 2003/1250.

⁽³⁾ S.R. 1998/13, revoked by S.I. 2003/1250.

⁽⁴⁾ Family Health Services Authorities no longer exist. They were merged with Health Authorities in 1994. Health Authorities have now been abolished.

Commencement Information

I2 Reg. 5 in force at 1.10.2023, see [reg. 1\(2\)](#)

General condition relating to all contracts

- 6.—**(1) The Local Health Board must not enter into a contract with—
- (a) a medical practitioner to whom paragraph (2) applies,
 - (b) two or more persons practising in partnership, where paragraph (2) applies to any person who is a partner in the partnership, or
 - (c) a company limited by shares where paragraph (2) applies to—
 - (i) the company,
 - (ii) any person legally or beneficially owning a share in the company, or
 - (iii) any director or secretary of the company.
- (2) This paragraph applies if—
- (a) the person is the subject of a national disqualification;
 - (b) subject to paragraph (3), the person is disqualified or suspended (other than by interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;
 - (c) the person has, within the 5 years before either the signing of the contract or commencement of the contract (whichever is the earlier), been dismissed (otherwise than by reason of redundancy) from any employment by a health service body, unless—
 - (i) if the person was employed as a member of a health care profession at the time of the dismissal, the person has subsequently been employed by that health service body or by another health service body, and
 - (ii) the dismissal was the subject of a finding of unfair dismissal by any competent tribunal or a court;
 - (d) the person has, within the 5 years before either the signing of the contract or commencement of the contract (whichever is the earlier), been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 107(2), (3) or (4) of the Act (disqualification of practitioners)), or a performers list held by the Local Health Board by virtue of regulation made under section 49(3) (persons performing primary medical services) of the Act, unless the person's name has been subsequently been included in such a list;
 - (e) the person has been convicted in the United Kingdom of murder;
 - (f) the person has been convicted in the United Kingdom of a criminal offence other than murder committed on or after 14 December 2001 and has been sentenced to a term of imprisonment of longer than 6 months;
 - (g) subject to paragraph (3), the person has been convicted outside the United Kingdom of an offence which would, if committed in England and Wales, constitute murder and—
 - (i) the offence was committed on or after 26 August 2002, and
 - (ii) the person was sentenced to a term of imprisonment of longer than 6 months;

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- (h) the person has been convicted of an offence, referred to in Schedule 1 to the Children and Young Persons Act 1933(5) (offences against children and young persons, with respect to which special provisions of this Act apply), or in Schedule 1 to the Criminal Procedure (Scotland) Act 1995(6) (offences against children under the age of 17 years of to which special provisions apply), committed on or after 1 March 2004;
- (i) the person has at any time been included in—
 - (i) any barred list within the meaning of section 2 of the Safeguarding Vulnerable Groups Act 2006(7) (barred lists), or
 - (ii) any barred list within the meaning of Article 6 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(8)(barred lists),
 unless the person was removed from the list either on the grounds that it was not appropriate for the person to have been included in it or as the result of a successful appeal;
- (j) the person has, within the period of 5 years before either the signing of the contract or commencement of the contract (whichever is the earlier), been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission, the Charity Commission for Northern Ireland or the High Court, and that order was made on the grounds of misconduct or mismanagement in the administration of a charity for which the person was responsible or to which the person was privy, or which was contributed to, or facilitated by, the person's conduct;
- (k) the person has, within the 5 years before either the date of the signing of the contract or the commencement of the contract (whichever is the earlier), been removed from being concerned with the management or control of any body in a case where the removal was by virtue of section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(9) (powers of Court of Session);
- (l) the person—
 - (i) has been made bankrupt and has not been discharged from the bankruptcy or the bankruptcy order has not been annulled, or
 - (ii) has had sequestration of the person's estate awarded and has not been discharged from the sequestration;
- (m) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(10) (bankruptcy restrictions order and undertaking), Schedule 2A to the Insolvency (Northern Ireland) Order 1989(11) (bankruptcy restrictions order and undertaking), or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(12) (bankruptcy restrictions order, interim

- (5) 1933 c. 12. Schedule 1 was amended by section 51 of, and Schedule 4 to, the Sexual Offences Act 1956 (c. 99); paragraph 8 of Schedule 15 to, and section 170(2) of, and Schedule 16 to, the Criminal Justice Act 1988 (c. 33); section 139 of, and paragraph 7 of Schedule 6 to, the Sexual Offences Act 2003 (c. 42); section 58(1) of, and Schedule 10 to, the Domestic Violence, Crime and Victims Act 2004 (c. 28); paragraph 53 of Schedule 21 to the Coroners and Justice Act 2009 (c. 25); section 115(1) of, and paragraph 136(a) and (b) of Schedule 9 to, the Protection of Freedoms Act 2012 (c. 9); and section 57(1) of, and paragraph 1 of Schedule 5 to, the Modern Slavery Act 2015 (c. 30).
- (6) 1995 c. 46. Schedule 1 was amended by paragraph 2 of Schedule 1 to the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 (asp 9), paragraph 2(8)(a) of Schedule 5 to the Sexual Offences (Scotland) Act 2009 (asp 9) and section 41(2) of the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13).
- (7) 2006 c. 47. Section 2 was amended by articles 3(a) and 4 of S.I. 2012/3006.
- (8) S.I. 2007/1351 (N.I. 11), as amended by section 81(2) and (3)(o)(i) of the Policing and Crime Act 2009 (c. 26).
- (9) 2005 asp 10. Section 34 was amended by section 122 of the Public Services Reform (Scotland) Act 2010 (asp 8).
- (10) 1986 c. 45. Schedule 4A was inserted by Schedule 20 of the Enterprise Act 2002 (c. 40), and was amended by section 71(3) of, and paragraph 63(1), (3)(a), (2)(a) and (b) to, the Enterprise and Regulatory Reform Act 2013 (c. s24).
- (11) S.I. 1989/2405 (N.I. 19). Schedule 2A was inserted by Article 13(2) of, and Schedule 5 to, S.I. 2005/1455 (N.I. 10).
- (12) 1985 c. 66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

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- bankruptcy restrictions order and bankruptcy restrictions undertaking), unless the person has been discharged from that order or that order has been annulled;
- (n) the person—
 - (i) is subject to moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986⁽¹³⁾ (debt relief orders), or
 - (ii) is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986⁽¹⁴⁾ (debt relief restrictions orders and undertakings);
 - (o) the person has made a composition agreement or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;
 - (p) the person is subject to—
 - (i) a disqualification order under section 1 of the Company Directors Disqualification Act 1986⁽¹⁵⁾ (disqualification orders: general) or a disqualification undertaking under section 1A of that Act⁽¹⁶⁾ (disqualification undertakings: general),
 - (ii) a disqualification order or disqualification undertaking under article 3 (disqualification orders: general) or Article 4 (disqualification undertakings: general) of the Company Directors Disqualification (Northern Ireland) Order 2002⁽¹⁷⁾, or
 - (iii) a disqualification order under section 429(2) of the Insolvency Act 1986⁽¹⁸⁾ (disabilities on revocation of an administration order against an individual);
 - (q) the person has had an administrator, administrative receiver or receiver appointed in respect of them;
 - (r) the person has had an administration order made in respect of the contractor under Schedule B1 to the Insolvency Act 1986⁽¹⁹⁾ (administration); or
 - (s) the contractor is a partnership and—
 - (i) a dissolution of the partnership is ordered by any competent court, tribunal or arbitrator, or
 - (ii) an event happens that makes it unlawful for the business of the partnership to continue, or for members of the partnership to carry on in partnership.
- (3) Paragraph (2)(b) or, as the case may be, paragraph (2)(g), does not apply to a person where—
- (a) that person—
 - (i) has been disqualified or suspended from practising by a licensing body outside of the United Kingdom, or
 - (ii) has been convicted of a criminal offence outside of the United Kingdom, and
 - (b) the Local Health Board is satisfied that the disqualification, suspension or, as the case may be, the conviction does not make that person unsuitable to be—
 - (i) a contractor,

⁽¹³⁾ Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

⁽¹⁴⁾ Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the Tribunals, Courts and Enforcement Act 2007.

⁽¹⁵⁾ 1986 c. 46. Section 1 was amended by sections 5(1) and (2) and 8 of the Insolvency Act 2000 (c. 40), section 204(1) and (3) of the Enterprise Act 2002 (c. 40), and sections 111 and 164(1) of, and paragraphs 1 and 2 of Schedule 7 to, the Small Business, Enterprise and Employment Act 2015 (c. 26).

⁽¹⁶⁾ Section 1A was inserted by section 6(1) and (2) of the Insolvency Act 2000 (c. 39), and was amended by section 111 of, and paragraphs 1, 3(1) and (2) of Schedule 7 to, the Small Business Enterprise and Employment Act 2015.

⁽¹⁷⁾ S.I. 2002/3150 (N.I. 4).

⁽¹⁸⁾ Section 429 was amended by section 269 of, and Schedule 23 to, the Enterprise Act 2002, and by section 106 of, and Schedule 16 to, the Tribunals, Courts and Enforcement Act 2007 (c.15).

⁽¹⁹⁾ Schedule B1 was inserted by section 248(2) of, and Schedule 16 to, the Enterprise Act 2002.

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- (ii) a partner, in the case of a contract with two or more persons practising in partnership, or
- (iii) in the case of a company limited by shares—
 - (aa) a person who legally or beneficially owns a share in the company, or
 - (bb) a director or secretary of the company.

(4) For the purposes of paragraph (2)(c), where a person has been employed as a member of a health care profession, any subsequent employment must also be as a member of that profession.

(5) In this regulation, “contractor” includes a person with whom the Local Health Board is proposing to enter into a contract with.

Commencement Information

I3 Reg. 6 in force at 1.10.2023, see [reg. 1\(2\)](#)

Notice of conditions not being met and reasons

7.—(1) Where the Local Health Board considers that the conditions specified in regulation 5 and 6 for entering into a contract are not met, it must give notice in writing to the person or persons intending to enter into the contract of—

- (a) its view and the reasons for that view, and
- (b) the right of appeal under regulation 8.

(2) The Local Health Board must also give notice in writing of its view and the reasons for that view to any person who both legally and beneficially owns a share in, or who is a director or secretary of, a company that is given notice under paragraph (1) in any case where its reason for the decision relates to such a person.

Commencement Information

I4 Reg. 7 in force at 1.10.2023, see [reg. 1\(2\)](#)

Right of appeal

8. A person who has been given a notice by the Local Health Board under regulation 7(1) may appeal to the First-tier Tribunal against the decision of the Local Health Board that the conditions in regulation 5 or 6 are not met.

Commencement Information

I5 Reg. 8 in force at 1.10.2023, see [reg. 1\(2\)](#)

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 para. 16(3) inserted by [S.I. 2023/1421 reg. 18\(b\)](#)
- Sch. 5 para. 2(2)(a)(iv)(aa) omitted by [S.I. 2023/1421 reg. 20\(d\)](#)
- Sch. 5 para. 2(2)(a)(i)(aa) word substituted by [S.I. 2023/1421 reg. 20\(c\)](#)