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STATUTORY INSTRUMENTS

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**2004 No. 585**

The National Health Service  
(Performers Lists) Regulations 2004

PART 1

GENERAL PROVISIONS AS TO PERFORMERS LISTS

**Suspension**

**13.**—(1) If a Primary Care Trust is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a performer from its performers list, in accordance with the provisions of this regulation—

- (a) while it decides whether or not to exercise its powers to remove him under regulation 10 or contingently remove him under regulation 12;
- (b) while it waits for a decision affecting him of a court anywhere in the world or of a licensing or regulatory body;
- (c) where it has decided to remove him, but before that decision takes effect; or
- (d) pending appeal under these Regulations.

(2) Subject to paragraph (8), in a case falling within paragraph (1)(a), the Primary Care Trust must specify a period, not exceeding six months, as the period of suspension.

(3) Subject to paragraph (8), in a case falling within paragraph (1)(b), the Primary Care Trust may specify that the performer remains suspended after the decision referred to in that paragraph has been made for an additional period, not exceeding six months.

(4) The period of suspension under paragraph (1)(a) or (b) may extend beyond six months if—

- (a) on the application of the Primary Care Trust, the FHSAA so orders; or
- (b) the Primary Care Trust applied under sub-paragraph (a) before the expiry of the period of suspension, but the FHSAA has not made an order by the time it expires, in which case it continues until the FHSAA makes an order.

(5) If the FHSAA does so order, it shall specify—

- (a) the date on which the period of suspension is to end;
- (b) an event beyond which it is not to continue; or
- (c) both a date on which it is to end and an event beyond which it is not to continue, in which case it shall end on the earlier of that date or that event, as the case may be.

(6) The FHSAA may, on the application of the Primary Care Trust, make a further order (complying with paragraph (5)) at any time while the period of suspension pursuant to the earlier order is still continuing.

(7) If the Primary Care Trust suspends a performer in a case falling within paragraph (1)(c) or (d), the suspension has effect from the date the Primary Care Trust informed him of the suspension until—

- (a) the expiry of any appeal period; or
- (b) if he appeals under regulation 15, the FHSAA has disposed of the appeal.

(8) The Primary Care Trust may extend the period of suspension under paragraph (2) or impose a further period of suspension under paragraph (3), so long as the aggregate does not exceed six months.

(9) The effect of a suspension is that, while a performer is suspended under these Regulations, he is to be treated as not being included in the Primary Care Trust's performers list, even though his name appears in it.

(10) The Primary Care Trust may at any time revoke the suspension and notify the performer of its decision.

(11) Where a Primary Care Trust is considering suspending a performer or varying the period of suspension under this regulation, it shall give him—

- (a) notice of any allegation against him;
- (b) notice of what action it is considering and on what grounds; and
- (c) the opportunity to put his case at an oral hearing before it, on a specified day, provided that at least 24 hours notice of the hearing is given.

(12) If the performer does not wish to have an oral hearing or does not attend the oral hearing, the Primary Care Trust may suspend the performer with immediate effect.

(13) If an oral hearing does take place, the Primary Care Trust shall take into account any representations made before it reaches its decision.

(14) The Primary Care Trust may suspend the performer with immediate effect following the hearing.

(15) The Primary Care Trust shall notify the performer of its decision and the reasons for it (including any facts relied upon) within 7 days of making that decision.

(16) The Primary Care Trust shall notify the performer of any right of review under regulation 14.

(17) During a period of suspension payments may be made to or in respect of the performer in accordance with a determination by the Secretary of State.

(18) If a payment is made pursuant to a determination under paragraph (17), but the payee was not entitled to receive all or any part thereof, if the amount to which he was not entitled has not been recovered by other means, it may be recovered as a civil debt.

(19) If a performer is dissatisfied with a decision of a Primary Care Trust ("the original decision")

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- (a) to refuse to make a payment to or in respect of him pursuant to a determination under paragraph (17);
  - (b) to make a payment to or in respect of him pursuant to a determination under paragraph (17), but at a lower level than the level to which he considers to be correct; or
  - (c) in respect of recovery of what the Primary Care Trust considers to be an overpayment, he may ask the Primary Care Trust to review the original decision and, if he does so, it shall reconsider that decision, and once it has done so, it must notify the performer in writing of the decision that is the outcome of its reconsideration of its original decision ("the reconsidered decision") and give him notice of the reasons for its reconsidered decision.

(20) If the performer remains dissatisfied (whether on the same or different grounds), he may appeal to the Secretary of State by giving him a notice of appeal within a period of 28 days beginning on the day that the Primary Care Trust notified him of the reconsidered decision.

(21) A notice of appeal under paragraph (20) shall include—

- (a) the names and addresses of the parties to the disputed decision;
- (b) a copy of the reconsidered decision; and
- (c) a brief statement of the grounds for appeal.

(22) The Secretary of State shall thereafter send a written request to the parties to make, in writing and within a specified period, any representations they may wish to make about the matter (and the request to the Primary Care Trust shall include a copy of the performer's brief statement of the grounds for appeal).

(23) Once the period specified pursuant to paragraph (22) has elapsed, the Secretary of State shall—

- (a) give a copy of any representations received from a party to the other party; and
- (b) request in writing a party to whom a copy of representations is given to make within a specified period any written observations which he or it wishes to make on those representations.

(24) Once the period specified pursuant to paragraph 23(b) has elapsed, the Secretary of State shall, as soon as is reasonably practicable, having taken into account any such representations or observations as referred to in paragraphs (22) and (23) (if submitted within the specified periods) and such other evidence as he sees fit to consider—

- (a) determine the appeal, and shall give notice of the determination (including a record of the reasons for it) to both parties; and
- (b) give the Primary Care Trust such directions in writing, if any, on the matter as he thinks fit.