

**EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (PERFORMERS LISTS) AMENDMENT
REGULATIONS 2006**

2006 No. 1385

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 This amendment makes explicit that a performer who is suspended from a list cannot seek to be included in another list while suspended. It also allows Foundation Year 2 doctors to be exempt from the requirement that, in order to provide primary care medical services, a doctor must be on a Primary Care Trust Performers List.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 Regulation 13 deals with the suspension of doctors. There is some ambiguity about the extent of a suspension, and whether a doctor can apply to be on another list whilst suspended. We are proposing to amend Regulation 13(9) to clarify the position and return to the original intention of the Regulations.
 - 4.2 Regulation 22 of the National Health Service (Performers Lists) Regulations 2004 says that a practitioner may not perform any primary medical services, unless he is a general medical practitioner and his name is included in a medical performers list. This amendment provides an exemption from that requirement for a specific group of trainee doctors.
5. **Extent**
 - 5.1 These Regulations apply to England only.
6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**
 - 7.1 Doctors performing primary medical services are normally required to be on a Primary Care Trusts (PCT) Performers List. The Regulations provide a framework within which PCTs can take action if a medical performer's

personal or professional conduct, competence or performance gives cause for concern. The Performers List Regulations require that doctors provide a range of information about themselves and they are required to provide an enhanced criminal record certificate.

Suspension

- 7.2 Suspension is a neutral act, not a disciplinary sanction. It is intended to protect the interests of patients, staff and the performer who is suspended. Suspension means that although a performer's name stays on the PCT's Performers List, he is treated as though his name has been removed from it. As a result, he cannot perform any aspect of any primary services for any patient.
- 7.3 There has been some doubt about whether a performer can apply to be on another list whilst suspended. We want to remove that doubt and ensure that, when a performer is suspended, he cannot apply to be on another list.

Foundation Training Programme

- 7.4 This information collection, in respect of doctors undertaking the Foundation programme of training, and the associated checks, will be undertaken by the postgraduate deanery. They will certify to the Primary Care Trusts, and the training practice that will supervise the doctor, that the checks have been carried out.
- 7.5 Ministers agreed therefore, that there was no value in Primary Care Trusts either repeating these checks or trying to get the trainees on their Performers Lists for the brief duration of the placement. That would be disproportionately burdensome and would provide no additional patient safety benefit.
- 7.6 The organisations that have an interest in this have been consulted. The Modernising Medical Careers team have consulted their network of post-graduate deans on the implications of this change. Department of Health policy officials have consulted the relevant committees of the British Medical Association. No objections have been received.
- 7.7 In 2004, we issued advice to the NHS on list management issues. Our intention is to update that advice later this year. The revision will take account of this amendment, plus other changes we are proposing to make following two recent Judicial Reviews into how PCTS manage their performers list processes.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Mr R. Harkins at the Department of Health Tel: 0113 254 6788 or e-mail: rab.harkins@dh.gsi.gov.uk can answer any queries regarding the instrument.