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WELSH STATUTORY INSTRUMENTS

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**2002 No. 1882 (W.191)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (General Medical Services  
Supplementary List) (Wales) Regulations 2002**

*Made* - - - - 18th July 2002

*Coming into force* - - 26th August 2002

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 29, 43D and 126(4) of the National Health Service Act 1977(1) and section 65 of the Health and Social Care Act 2001(2), hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 and shall come into force on 26th August 2002.

(2) These Regulations extend to Wales only.

**Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“Abolition of the Tribunal Regulations” (*“Diddymu Rheoliadau'r Tribiwnlys”*) means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002(3);

“contingent removal” (*“tynnu'n amodol”*) shall be construed in accordance with section 49G;

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(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18; and by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), Schedule 2, paragraph 8. Section 43D was inserted by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), section 24. Section 126(4) was amended by the 1990 Act, section 65(2); by the 1999 Act, Schedule 4, paragraph 37(6) and by the 2001 Act, Schedule 5, paragraph 5(13)(b). As regards Wales, the functions of the Secretary of State under section 29 and 126(4) of the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; section 68 of the 2001 Act provides that Schedule 1 shall be construed so as to include the amendments made by that Act to the 1977 Act, which is section 43D; these Regulations therefore extend only to Wales.

(2) 2001 c. 15.

(3) S.I. 2002/1920

“doctor” (“*meddyg*”) means a registered medical practitioner;

“director” (“*cyfarwyddwr*”) means—

- (a) a director of a body corporate; or
- (b) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership);

“employment” (“*cyflogaeth*”) means any employment whether paid or unpaid and whether under a contract for services or a contract of service, and “employed” and “employer” shall be construed accordingly;

“equivalent body” (“*corff cyfatebol*”) means a Health Authority in England, a Health Board or an NHS trust in Scotland or a Health and Social Services Board in Northern Ireland;

“equivalent lists” (“*rhestrau cyfatebol*”) means lists kept by an equivalent body;

“FHSAA” means the Family Health Services Appeal Authority constituted under section 49S;

“fraud case” (“*achos a dwyll*”) means a case where a person satisfies the second condition for removal from the medical list, set out in section 49F(3) or by virtue of section 49H is treated as doing so;

“General Practice (GP) Registrar” (“*Cofrestrydd Practis Cyffredinol*”) means a doctor who is being trained in general practice by a doctor whose name is included in a medical list;

“Health Committee” (“*Pwyllgor Iechyd*”) means the Health Committee of the General Medical Council constituted under section 1(3) of the Medical Act 1983;

“licensing or regulatory body” (“*corff trwyddedu neu reoleiddiol*”) means the body that licenses or regulates any profession of which the doctor is, or has been a member, and includes a GP educational competent body;

“Medical Act” (“*Deddf Feddygol*”) means the Medical Act 1983(4);

“a national disqualification” (“*datgymhwysiad cenedlaethol*”) means—

- (a) a decision made by the FHSAA in relation to a doctor under section 49N,
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N,
- (c) a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4) of the Abolition of the Tribunal Regulations,
- (d) a decision of the Tribunal;

“the NCAA” (“*yr NCAA*”) means the National Clinical Assessment Authority established as a Special Health Authority under section 11(5);

“the National Health Service Counter Fraud Service” (“*Gwasanaeth Gwrth Dwyll y Gwasanaeth Iechyd Gwladol*”) means the service provided by the Secretary of State to deal with inquiries and investigations in relation to any allegations of fraud or corruption in the health service(6);

“originating events” (“*digwyddiadau a arweiniodd*”) means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;

“Preliminary Proceedings Committee” (“*Pwyllgor Gweithrediadau Rhagarweiniol*”) means the Preliminary Proceedings Committee of the General Medical Council constituted under section 1(3) of the Medical Act;

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(4) 1983 c. 54.

(5) The NCAA was established by S.I. 2000/2961.

(6) The National Health Service Counter Fraud Service may be contacted by writing to them at the 7th Floor, Hannibal House, Elephant and castle, London SE1 6TE, or e-mailing them on [DCFS@doh.gov.UK](mailto:DCFS@doh.gov.UK).

“professional conduct” (“*ymddygiad proffesiynol*”) includes matters relating both to professional conduct and professional performance;

“Professional Conduct Committee” (“*Pwyllgor Ymddygiad Proffesiynol*”) means the Professional Conduct Committee of the General Medical Council constituted under section 1(3) of the Medical Act;

“Primary Care Act” (“*Deddf Gofal Sylfaenol*”) means the 1997 Act<sup>(7)</sup>;

“professional registration number” (“*rhif cofrestru proffesiynol*”) means the number against the doctor’s name in the register maintained by the General Medical Council, with the suffix of the organisational code given to the Health Authority by the Secretary of State on whose list the doctor is included<sup>(8)</sup>;

“services list” (“*rhestr wasanaethau*”) means a list prepared under section 28DA of the National Health Service Act 1977 or under section 8ZA of the Primary Care Act;

“suspended” (“*atal dros dro*”) means—

- (a) suspended by a Health Authority under section 49I or 49J or under regulations made under sections 28DA or 43D, or section 8ZA of the Primary Care Act,
- (b) suspended by the Tribunal,
- (c) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in sections 49I or 49J,

and shall be treated as including a case where a person is treated as suspended by a Health Authority in Wales by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, and “suspends” and “suspension” shall be construed accordingly;

“the Tribunal” (“*y Tribiwnlys*”) means the Tribunal constituted under section 46<sup>(9)</sup> for England and Wales;

(2) All references in these Regulations to sections are to sections of the National Health Service Act 1977 except where specified otherwise.

(3) Unless the context requires otherwise—

- (a) any reference in these Regulations:
  - (i) to a numbered regulation is a reference to the regulation bearing that number in these Regulations,
  - (ii) to a numbered Part or Schedule is to the Part of, or Schedule to, these Regulations bearing that number, and
- (b) any reference in a regulation or in a schedule to these Regulations to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or schedule.

### Supplementary list

3.—(1) A Health Authority shall prepare and publish a supplementary list of all doctors approved by the Health Authority for the purposes of assisting in the provision of general medical services.

(2) In respect of any doctor whose name is included in it, the list shall include—

- (a) the doctor’s full name;
- (b) professional registration number;

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(7) 1997 c. 46.

(8) Organisational Codes are issued by the Department of Health Organisational Codes Service, Room 380D, Skipton House, London SE1 6LH.

(9) Section 46 was substituted by the Health Act 1999 c. 8.

- (c) the doctor's date of birth, where the doctor consents, or if not, the doctor's date of first registration in the Medical Register; and
  - (d) the date that the doctor's name was included in the list.
- (3) The list shall be available for public inspection.

#### **Application for inclusion in the supplementary list**

4.—(1) An application by a doctor for the inclusion of the doctor's name on the supplementary list shall be made by sending the Health Authority an application in writing, which shall include the information mentioned in paragraph (2).

- (2) The doctor shall provide the following information—
- (a) full name;
  - (b) sex;
  - (c) date of birth;
  - (d) private address and telephone number;
  - (e) medical qualifications and where obtained, a copy of evidence concerning the applicant's qualifications and experience produced in accordance with the National Health Service (Vocational Training for General Medical Practice) Regulations 1997(10);
  - (f) declaration that the doctor is a fully registered medical practitioner included in the Medical Register;
  - (g) professional registration number and date of first registration;
  - (h) details of professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments) separated into:
    - (i) general practice experience (whether as principal, assistant or deputy),
    - (ii) hospital appointments,
    - (iii) other (including obstetric experience),
    - (iv) any additional supporting particulars, including an explanation of why the doctor was dismissed from any post;
  - (i) names and addresses of two referees who are willing to provide clinical references relating to two recent posts (which may include any current post) as a doctor which lasted at least three months without a significant break, and where this is not possible, a full explanation and alternative referees;
  - (j) details of any Health Authority list or equivalent lists from which the doctor has been removed, conditionally removed, or to which the doctor has been refused admission or conditionally included in, or from which the doctor is currently suspended, with an explanation as to why, or particulars of any outstanding application (including deferred applications);
  - (k) if the applicant is the director of any body corporate that is included in any list of any Health Authority, or equivalent lists, or which has an outstanding application (including a deferred application) for inclusion in any list of any Health Authority or equivalent list, the name and registered office of any such body, and details of the Health Authority or equivalent body concerned;
  - (l) where the doctor is, or was in the preceding six months, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, details of any

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(10) S.I. 1997/2817, amended by S.I. 1998/669.

Health Authority list or equivalent lists for which that body has been refused admission, conditionally included, removed, contingently removed or from which it is currently suspended, with an explanation as to why;

- (m) any other information that the Health Authority may reasonably require to determine the doctor's application.
- (3) The doctor shall provide the following undertakings and consents—
- (a) undertaking to provide the declarations required by regulation 9;
  - (b) undertaking not to assist in providing general medical services in the area of another Health Authority from whose supplementary, medical or services list the doctor has been removed, except where that removal was at the request of the practitioner or in accordance with regulation 10(7), without the consent in writing of that Health Authority;
  - (c) undertake to notify the Health Authority within 7 days of any material changes to the information provided in the application until the application is finally determined;
  - (d) undertake to notify the Health Authority if the doctor is included, or applies to be included, in any other list held by a Health Authority or equivalent body;
  - (e) undertake to co-operate with an assessment by the NCAA when requested to do so by the Health Authority;
  - (f) consent to the disclosure of information in accordance with regulation 9.
- (4) The doctor shall send with the application a declaration as to whether the doctor—
- (a) has any criminal convictions in the United Kingdom;
  - (b) has been bound to keep the peace in the United Kingdom;
  - (c) has accepted a police caution in the United Kingdom;
  - (d) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the United Kingdom, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
  - (e) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
  - (f) has been subject to any investigation into the doctor's professional conduct by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
  - (g) is currently subject to any investigation into the doctor's professional conduct by any licensing, regulatory or other body anywhere in the world;
  - (h) is to the doctor's knowledge, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case;
  - (i) is the subject of any investigation by another Health Authority or equivalent body, which might lead to the doctor's removal from any of that Health Authority's lists or equivalent lists;
  - (j) is, or has been where the outcome was adverse, the subject of any investigation into the doctor's professional conduct in respect of any current or previous employment;
  - (k) has been removed, contingently removed, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, or is currently suspended from such a list,

and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(5) If the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate, the doctor shall in addition make a declaration to the Health Authority as to whether the body corporate—

- (a) has any criminal convictions in the United Kingdom;
- (b) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the United Kingdom, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (c) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
- (d) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
- (e) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
- (f) is to the doctor's knowledge, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case;
- (g) is the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
- (h) has been removed, contingently removed, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, or is currently suspended from such a list,

and if so, give the name and registered office of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(6) The doctor shall provide all necessary authority to enable a request to be made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraphs (2), (4) and (5).

### **Readmission**

5. Where a doctor has been removed from a medical, supplementary or services list by a Health Authority on the grounds that the doctor had been convicted of a criminal offence, and that conviction is overturned on appeal, that Health Authority may agree to include the doctor in its supplementary list without a full application if it is satisfied that there are no other matters that need to be considered and provided that it receives an undertaking to comply with the requirements of these regulations.

### **Grounds for refusal**

6.—(1) The grounds on which a Health Authority may refuse to include a doctor in its supplementary list are—

- (a) that the Health Authority having considered the declaration required by regulation 4(4) and (5) and any other information in their possession in relation to this application, consider the doctor is unsuitable to be included in the list;
- (b) that having checked the information provided by the doctor under regulation 4(2)(e) and (f) the Health Authority consider the practitioner is unsuitable to be included in the list;

- (c) that having contacted referees provided by the doctor under regulation 4(2)(i), the Health Authority are not satisfied with the references;
  - (d) that having checked with the National Health Service Counter Fraud Service for any facts that they consider relevant relating to past or current fraud investigations involving the doctor, and having considered these and any fraud case relating to the doctor, the Health Authority consider these justify such refusal;
  - (e) that there are any grounds for considering that admitting the practitioner to the list would be prejudicial to the efficiency of the service which the doctor would undertake;
  - (f) where the doctor's registration in the register of medical practitioners is subject to conditions imposed pursuant—
    - (i) to a direction of the Professional Conduct Committee under section 36 of the Medical Act,
    - (ii) to a direction of the Health Committee under section 37 of that Act,
    - (iii) to an order of either of those committees or the Preliminary Proceedings Committee under section 42 of that Act,
    - (iv) to a direction of the Committee on Professional Performance under section 36A of that Act<sup>(11)</sup>.
- (2) The grounds on which a Health Authority must refuse to include a doctor in its supplementary list are—
- (a) that the doctor has not for three out of the last six months, provided general medical services in its area, or provided satisfactory evidence that the doctor intends to provide services in its area;
  - (b) that the doctor is on the services or medical list of any Health Authority in England unless the doctor has given notice in writing that the doctor wishes to withdraw from that list;
  - (c) that the doctor is on the supplementary list of any other Health Authority in England unless the doctor has given notice in writing that the doctor wishes to withdraw from that list;
  - (d) if it is not satisfied that the doctor is suitably experienced within the meaning of section 31;
  - (e) if it is not satisfied that the doctor has the knowledge of English which, in the doctor's own interests and those of the doctor's patients, is necessary for the provision of general medical services in its area;
  - (f) where the doctor has been convicted in the United Kingdom of murder;
  - (g) where, after the date that this regulation comes into force, the doctor has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of over six months;
  - (h) where the doctor has been nationally disqualified;
  - (i) where the doctor has not updated the doctor's application in accordance with regulation 7(4);
  - (j) where the doctor does not notify the Health Authority under regulation 15(5) that the doctor wishes to be included in the list subject to the specified conditions.
- (3) Before making a decision on the application, the Health Authority shall—
- (a) check, as far as practicable, the information provided by the doctor, in particular that provided under regulations 4(2)(e) and (f), 4(4) and 4(5), including having sight of relevant documents; and

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<sup>(11)</sup> Section 36A was inserted by the Medical (Professional Performance) Act 1995 c. 51.

(b) check with the National Health Service Counter Fraud Service for any incident of a fraud case.

(4) Where the Health Authority is considering refusal of a doctor under paragraph (1) or (2) it shall consider all facts which appear to it to be relevant, and shall in particular take into consideration in relation to paragraph (1)(a), (d) or (e) above—

- (a) the nature of any offence, investigation or incident;
- (b) the length of time since such offence or incident, conviction or investigation;
- (c) whether there are other offences, incidents or investigations to be considered;
- (d) any action or penalty imposed by any licensing, regulatory or other body, the police or the courts as a result of the offence, incident or investigation;
- (e) the relevance of any offence, investigation or incident to the provision by the doctor of general medical services and any likely risk to the doctor's patients or to public finances;
- (f) whether any offence was a sexual offence to which Part I of the Sexual Offences Act 1997 (12) applies
- (g) whether the doctor has been refused admission to or conditionally included in, removed, contingently removed or is currently suspended from any of a Health Authority's lists or equivalent lists, and if so the facts relating to the matter which led to such action and reason given by the Health Authority or equivalent body for such action; and
- (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action.

(5) When the Health Authority takes into consideration the matters set out in paragraph (4), they shall consider the overall effect of all the matters being considered.

(6) When refusing to include a doctor in its list, the Health Authority shall notify the doctor of its decision and the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15 against the Health Authority's decision.

### **Deferment of decision on application**

7.—(1) A Health Authority may defer a decision on an application to be included in the supplementary list received after 31st October 2002—

- (a) where there are legal proceedings that are criminal proceedings in the United Kingdom or, where there are legal proceedings in respect of conduct which, had it occurred in the United Kingdom would constitute a criminal offence, and that if successful would be likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;
- (b) where there are legal proceedings against a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, that are criminal proceedings in the United Kingdom or, where there are legal proceedings in respect of conduct which, had it occurred in the United Kingdom would constitute a criminal offence, and that if successful would be likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;
- (c) where there is an investigation anywhere in the world by the doctor's licensing or regulatory body or any other investigation (including one by another Health Authority or



equivalent body) relating to the doctor in the doctor's professional capacity that if adverse would be likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;

- (d) where the doctor is suspended from any of the lists or equivalent lists;
- (e) where a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, is suspended from any of the lists or equivalent lists;
- (f) where the FHSAA is considering an appeal by the doctor against a decision of a Health Authority to refuse to approve, nominate or admit a doctor to its list, or to conditionally include in or to contingently remove from, or to remove from any list kept by a Health Authority and if that appeal is unsuccessful the Health Authority would be likely to remove the doctor from the Health Authority list if the doctor had been included;
- (g) where the FHSAA is considering an appeal by a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, against a decision of a Health Authority to refuse to approve, nominate or admit the body corporate to its list, or to conditionally include in or to contingently remove from, or to remove from any list kept by a Health Authority and if that appeal is unsuccessful the Health Authority would be likely to remove the doctor from the Health Authority list if the doctor had been included;
- (h) where the doctor is being investigated by the National Health Service Counter Fraud Service in relation to any fraud, where the result if adverse would be likely to lead to the removal of the doctor from the Health Authority list if the doctor had been included;
- (i) where a body corporate, of which the doctor is, has in the preceding six months been, or was at the time of the originating events a director, is being investigated by the National Health Service Counter Fraud Service in relation to any fraud, where the result if adverse would be likely to lead to the removal of the doctor from the Health Authority list if the doctor were to be included;
- (j) where the FHSAA is considering an application from a Health Authority for a national disqualification of the doctor;
- (k) where the FHSAA is considering an application from a Health Authority for a national disqualification of the doctor or a body corporate of which the doctor is, has in the preceding six months been, or was at the time of the original events a director.

(2) A Health Authority may only defer a decision under paragraph (1) above until the outcome of the relevant event mentioned in sub-paragraphs (a), (b), (c), (f), (g), (h), (i), (j) or (k) is known or whilst the doctor is suspended or the body corporate is suspended under sub-paragraph (d) or (e) above.

(3) The Health Authority must notify the applicant that it has deferred a decision on the application and the reasons for it.

(4) Once the outcome of the relevant event mentioned in sub-paragraph (a), (b), (c), (f), (g), (h), (i), (j) or (k) paragraph (1) is known or the suspension referred to in sub-paragraph (d) or (e) has come to an end, the Health Authority must notify the doctor that the doctor must update his or her application within 28 days (or such longer period as the Health Authority may agree) with any relevant information before it can be considered.

(5) Provided any additional information has been received within the 28 days or the time agreed, the Health Authority shall notify the applicant as soon as possible—

- (a) that the doctor's application to be included has been successful; or

- (b) that the Health Authority has decided to refuse the application or impose conditions on the doctor's inclusion, and the reasons for it (including any facts relied upon), and any right of appeal under regulation 15.

### **Conditional Inclusion**

**8.—(1)** A Health Authority may determine that if a person is to be included in the supplementary list, the doctor is to be subject, while the he or she remains included in the list, to the imposition of conditions, having regard to the requirements of section 43D(5).

(2) Failure to comply with a condition may lead to the removal of the doctor from the list.

(3) Where the Health Authority is considering the removal of a doctor for breach of a condition, it shall—

- (a) give the doctor notice of any allegation against the doctor;
- (b) give the doctor notice of the grounds for the action it is considering;
- (c) give the doctor the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
- (d) give the doctor the opportunity to put the doctor's case at an oral hearing before the Health Authority, if the doctor requests one within the 28 day period mentioned in sub-paragraph (c).

(4) If there are no representations within the period specified in paragraph (3)(c), the Health Authority shall inform the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(5) If there are representations, the Health Authority must take them into account before reaching its decision, and notifying the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(6) If the doctor requests an oral hearing, this must take place before the Health Authority reaches its decision, and the Health Authority must then notify the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(7) When the Health Authority notifies the doctor of any decision, it shall inform the doctor that if the doctor wishes to exercise a right of appeal, the doctor has 28 days from the date of the decision to do so, and shall tell the doctor how to do so.

(8) The Health Authority shall also notify the doctor of the doctor's right to have the decision reviewed in accordance with regulation 14.

(9) Where the Health Authority determines that the doctor may be included in the list but subject to conditions imposed under this regulation, or that a doctor is to be subject to conditions while the doctor remains included in the list, the name of the doctor may be included (or continue to be included) on the list during the period for bringing the appeal to the FHSAA pursuant to regulation 15, or if an appeal is brought, until such time as that appeal has been decided, provided the doctor agrees to be bound by the conditions imposed until the time for appeal has expired or the appeal is decided.

### **Requirements with which a doctor on the supplementary list must comply**

**9.—(1)** The doctor shall make a declaration to the Health Authority in writing within 7 days of its occurrence if the doctor—

- (a) is convicted of any criminal offence in the United Kingdom;
- (b) is bound over to keep the peace in the United Kingdom;
- (c) accepts a police caution in the United Kingdom;

- (d) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the United Kingdom, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
  - (e) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales, would constitute a criminal offence;
  - (f) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into the doctor's professional conduct, and there is a finding against the doctor;
  - (g) becomes the subject of any investigation into the doctor's professional conduct by any licensing, regulatory or other body;
  - (h) becomes subject to an investigation into the doctor's professional conduct in respect of any current or previous employment, or is notified of the outcome of any such investigation if adverse;
  - (i) becomes to the doctor's knowledge the subject of any investigation by the National Health Service Counter Fraud Service in relation to fraud;
  - (j) becomes the subject of any investigation by another Health Authority or equivalent body, which might lead to the doctor's removal from any of that Health Authority's lists or equivalent lists;
  - (k) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body,
- and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(2) If the doctor is, or was in the preceding six months, or was at the time of the originating events a director of a body corporate, the doctor shall make a declaration to the Health Authority in writing within 7 days of its occurrence if that body corporate—

- (a) is convicted of any criminal offence in the United Kingdom;
  - (b) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
  - (c) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in the United Kingdom, would constitute a criminal offence;
  - (d) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into its provision of professional services, and there is a finding against the body corporate;
  - (e) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
  - (f) becomes to the doctor's knowledge the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case, or is notified of the outcome of such an investigation if adverse;
  - (g) becomes the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
  - (h) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body,
- and if so, give the name and registered address of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or

proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(3) The doctor shall provide all necessary authority to enable a request to be made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraph (1) and (2).

### **Removal from supplementary list**

**10.**—(1) The Health Authority must remove a doctor from a supplementary list where it becomes aware that—

- (a) the doctor has been convicted in the United Kingdom of murder;
- (b) the doctor has been convicted in the United Kingdom since the date on which these Regulations came into force of a criminal offence and has been sentenced to a term of imprisonment of over six months;
- (c) the doctor has been nationally disqualified;
- (d) the doctor has died;
- (e) the doctor is no longer a doctor;
- (f) the doctor is the subject of—
  - (i) a direction given by the Professional Conduct Committee under section 36 of the Medical Act, or
  - (ii) an order made by that committee under section 38(1) of that Act;
- (g) the doctor is included in the medical or services list of any Health Authority, or the supplementary list of another Health Authority,

and shall notify the doctor immediately that it has done so.

(2) Where a Health Authority is notified by the FHSAA that it has considered—

- (a) an appeal by a doctor against a contingent removal by the Health Authority and has decided to remove the doctor instead; or
- (b) an appeal by a doctor against a conditional inclusion, where the doctor has been conditionally included in the list until the appeal has been decided, and has decided not to include the doctor,

the Health Authority shall remove the doctor and shall notify the doctor immediately that it has done so.

(3) The Health Authority may remove a doctor from the supplementary list where any of the conditions set out below is satisfied.

(4) The conditions mentioned in paragraph (3) are—

- (a) that the continued inclusion of the doctor concerned in the list would be prejudicial to the efficiency of the services which those included in the list assist in providing (“an efficiency case”);
- (b) that the doctor concerned (whether on the doctor’s own or together with another) is involved in a fraud case in relation to any health scheme; or
- (c) that the doctor concerned is unsuitable to be included in the list (“an unsuitability case”).

(5) In addition to the services covered by the definition of “health scheme” in section 49F(8), the following shall also be health schemes—

- (a) health services, including medical and surgical treatment, provided by Her Majesty's Forces;
  - (b) services provided by Port Health Authorities constituted under the Public Health (Control of Disease) Act 1984<sup>(13)</sup>;
  - (c) health services provided to a prisoner in the care of the medical officer or other such officer of a prison appointed for the purposes of section 7 of the Prison Act 1952<sup>(14)</sup>;
  - (d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.
- (6) A Health Authority may also remove a doctor from a supplementary list if—
- (a) it decides the doctor is in breach of a condition imposed on the doctor on inclusion on the list under regulation 8;
  - (b) it decides the doctor has failed to comply with a condition imposed on a contingent removal under regulation 12; or
  - (c) it decides the doctor has failed to comply with a condition imposed on a contingent removal by the FHSAA under regulation 15(6).
- (7) Where the doctor cannot demonstrate that the doctor has assisted in the provision of general medical services within the area of the Health Authority during the preceding twelve months, the Health Authority may remove the doctor from the supplementary list.
- (8) In calculating the period of twelve months referred to in paragraph (7), the Health Authority shall disregard any period—
- (a) during which the doctor's registration as a medical practitioner was suspended as mentioned in section 29(8) (suspension by direction or order of the Health Committee) or by interim order of the Preliminary Proceedings Committee;
  - (b) during which the doctor was suspended by virtue of section 41A of the Medical Act 1983;
  - (c) during which the doctor was suspended under these Regulations; and
  - (d) during which the doctor was performing relevant service as defined in regulation 2 of the National Health Service (General Medical Services) Regulations 1992<sup>(15)</sup>.
- (9) Where a Health Authority is considering removing a doctor under paragraphs (3) to (7) of this regulation, or contingently removing a doctor under regulation 12, it shall—
- (a) give the doctor notice in writing of any allegation against the doctor;
  - (b) give the doctor notice of what action the Health Authority is considering and on what grounds;
  - (c) give the doctor the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
  - (d) give the doctor the opportunity to put the doctor's case at an oral hearing before the Health Authority, if the doctor so requests within the 28 day period mentioned in sub-paragraph (c).
- (10) Where the Health Authority decides to remove a doctor under paragraph (7), the doctor shall not be removed from the list for a period of three months starting on the date on which the Health Authority reaches its decision or for a period of three months starting on the date any appeal is disposed of by the FHSAA whichever is the latest.

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<sup>(13)</sup> 1984 c. 22.

<sup>(14)</sup> 1952 c. 52.

<sup>(15)</sup> S.I. 1992/635.

(11) If there are no representations within the period specified in paragraph (9)(c), the Health Authority shall inform the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(12) If there are representations, the Health Authority must take them into account before reaching its decision, and notifying the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(13) If the doctor requests an oral hearing, this must take place before the Health Authority reaches its decision, and the Health Authority must then notify the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

(14) When the Health Authority notifies the doctor of any decision, it shall inform the doctor that if the doctor wishes to exercise a right of appeal, the doctor has 28 days from the date of the decision to do so, and shall tell the doctor how to do so.

(15) The Health Authority shall also notify the doctor of the doctor's right to have the decision reviewed in accordance with regulation 14.

### **Criteria for removal**

**11.**—(1) Where a Health Authority is considering whether to remove a doctor using the power in regulation 10(4)(c) (an unsuitability case), it shall consider the information from the doctor in the form of a declaration supplied under regulation 9, and must apply the criteria set out in paragraph (2).

(2) The criteria referred to in paragraph (1) are—

- (a) the nature of any offence, conviction, investigation or incident;
- (b) the length of time since any such offence was committed, and since any criminal conviction or investigation;
- (c) whether there are other criminal offences to be considered;
- (d) the penalty imposed on any criminal conviction or the outcome of any investigation;
- (e) the relevance of any criminal offence or investigation into professional conduct on the provision by the doctor of general medical services and the likely risk to patients;
- (f) whether any criminal offence was a sexual offence to which Part I of the Sexual Offences Act 1997<sup>(16)</sup> applies;
- (g) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;
- (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;
- (i) whether the doctor is, has been in the preceding six months been, or was at the time of the originating events, a director of a body corporate which currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.

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(16) 1997 c. 51.

(3) Where a Health Authority is considering removal of a doctor under regulation 10(4)(b), (a fraud case), it shall consider the information from the doctor in the form of a declaration supplied under regulation 9, and must apply the criteria set out in paragraph (4).

(4) The criteria referred to in paragraph (3) are—

- (a) the nature of any fraud case;
- (b) the length of time since the last incident of fraud (if any) occurred, and since any investigation into that incident of fraud was concluded;
- (c) whether there are other incidents of fraud cases or other criminal offences to be considered;
- (d) any action taken by any licensing, regulatory or other body, the police or the courts as a result of the incident;
- (e) the relevance of any investigation into the incident of fraud to the provision by the doctor of general medical services and the likely risk to patients or to public finances;
- (f) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to the action and the reasons given by the Health Authority or equivalent body for such action;
- (g) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to the action and the reasons given by the Health Authority or equivalent body for such action;
- (h) Whether the doctor is at the time, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.

(5) Where a Health Authority is considering removal of a doctor under regulation 10(4)(a), an efficiency case, it shall consider the information from the doctor in the form of a declaration supplied under regulation 9, and must apply the criteria set out in paragraph (6).

(6) The criteria referred to in paragraph (5) are—

- (a) whether the doctor's continued inclusion in the list would be prejudicial to the efficiency of the general medical services provided by the doctor;
- (b) the length of time since any incident occurred, and since the investigation of the incident was concluded;
- (c) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such incident;
- (d) the nature of the incident and whether there is a likely risk to patients;
- (e) whether the doctor has ever failed to comply with a request by the Health Authority to undertake an assessment by the NCAA;
- (f) whether the doctor has previously failed to make a declaration or comply with an undertaking required by these Regulations;
- (g) whether the doctor has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;

- (h) whether the doctor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;
- (i) whether the doctor is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the facts relating to the matter which led to the suspension and the reasons given by the Health Authority or equivalent body for the suspension.

(7) In making any decision under regulation 10, the Health Authority shall take into account the overall effect of any relevant incidents and offences relating to the doctor of which it is aware, whichever condition it relies on.

(8) When making a decision on any condition in regulation 10, the Health Authority shall state in its decision on which condition it relies.

### **Contingent removal**

**12.—**(1) In an efficiency case or a fraud case the Health Authority may, instead of deciding to remove a doctor from its list, decide to remove the doctor contingently.

(2) If it so decides, it must impose such conditions as it may decide on the doctor's inclusion in the list with a view to—

- (a) removing any prejudice to the efficiency of the services in question (in an efficiency case); or
- (b) preventing further acts or omissions in a fraud case.

(3) If the Health Authority determine the doctor has failed to comply with a condition, it may decide to—

- (a) vary the conditions imposed;
- (b) impose new conditions; or
- (c) remove the doctor from the list.

### **Suspension**

**13.—**(1) If a Health Authority 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 doctor from its list—

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

(2) In a case falling within paragraph (1)(a), the Health Authority must specify a period not exceeding six months as the period of suspension.

(3) In a case falling within paragraph (1)(b), the Health Authority may specify that the doctor remains suspended after the decision referred to there for an additional period not exceeding six months.



- (4) The period of suspension may extend beyond six months if—
- (a) on the application of the Health Authority, the FHSAA so orders; and
  - (b) if the Health Authority have applied under 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) a combination of (a) and (b).
- (6) The FHSAA may, on the application of the Health Authority, 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 Health Authority suspends a doctor in a case falling within paragraph (1)(c) or (d), the suspension has effect from the date the Health Authority gave the doctor notice of the suspension until the expiry of any appeal period or, if the doctor appeals under regulation 15, until the FHSAA has disposed of the appeal.
- (8) The Health Authority may extend the period of suspension under paragraph (1)(a) 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 doctor is suspended under these Regulations the doctor is to be treated as not being included in the list even though the doctor's name appears in it.
- (10) The Health Authority may at any time revoke the suspension, and inform the doctor of its decision.
- (11) Where a Health Authority is considering suspending a doctor or varying the period of suspension under this regulation, it shall—
- (a) give the doctor notice in writing of any allegation against the doctor;
  - (b) give the doctor notice of what action the Health Authority is considering and on what grounds;
  - (c) give the doctor the opportunity to put the doctor's case at an oral hearing before the Health Authority on a specified day, provided that at least 24 hours notice of the hearing is given.
- (12) If the doctor does not wish to have an oral hearing or does not attend the oral hearing, the Health Authority shall inform the doctor of its decision and the reasons for it (including any facts relied upon).
- (13) If an oral hearing does take place, the Health Authority shall take into account any representations made before it reaches its decision.
- (14) The Health Authority may suspend the doctor with immediate effect following the hearing.
- (15) The Health Authority shall notify the doctor of its decision and the reasons for it (including any facts relied upon).
- (16) The Health Authority shall inform the doctor of any right of review under regulation 14.
- (17) During a period of suspension, the doctor may be paid by the Health Authority in accordance with a determination by the National Assembly for Wales or a person appointed for the purpose by the National Assembly for Wales.

## **Reviews**

**14.—(1)** A Health Authority may, and if requested in writing to do so by the doctor must, review a Health Authority decision to—

- (a) impose or vary conditions imposed under regulation 8;
  - (b) impose or vary conditions imposed under regulation 12 except where the conditions were imposed by the FHSAA;
  - (c) suspend a doctor under regulation 13(1)(a) or (b), except where a suspension is imposed by the FHSAA or is continuing by order of the FHSAA.
- (2) A doctor may not request a review of a Health Authority decision until the expiry of a three month period beginning with the date of the Health Authority's decision or, in the case of a conditional inclusion under regulation 8, from the date the Health Authority includes the doctor's name in the supplementary list.
- (3) After a review has taken place, the doctor cannot request a further review before the expiry of six months from the date of the decision on the last review.
- (4) If a Health Authority decides to review its decision under this regulation to conditionally include in, contingently remove or suspend a practitioner, it shall—
- (a) give the doctor notice in writing of any allegation against the doctor;
  - (b) give the doctor notice of what action the Health Authority is considering and on what grounds;
  - (c) give the doctor the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
  - (d) give the doctor the opportunity to put the doctor's case at an oral hearing before the Health Authority, if the doctor so requests within the 28 day period mentioned in sub-paragraph (c).
- (5) If there are no representations within the period specified in paragraph (4)(c), the Health Authority shall inform the doctor of its decision, the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.
- (6) If there are representations, the Health Authority must take them into account before reaching its decision.
- (7) The Health Authority shall notify the doctor of its decision, the reasons for it (including any facts relied upon), any right of appeal under regulation 15 and the right to a further review under regulation 14.
- (8) If a Health Authority decides to review its decision to impose conditions under regulation 8, the Health Authority may vary the conditions, impose different conditions, remove the conditions or remove the doctor from the list.
- (9) If a Health Authority decides to review its decision to impose a contingent removal under regulation 12, the Health Authority may vary the conditions, impose different conditions, or remove the doctor from the list.
- (10) If a Health Authority decides to review its decision to suspend a doctor under regulation 13(1) (a) or (b), the Health Authority may decide to impose conditions or remove the doctor from its list.

## **Appeals**

**15.—**(1) A doctor may appeal (by way of redetermination) to the FHSAA against a decision of a Health Authority mentioned in paragraph (2) by giving notice in writing to the FHSAA.

- (2) The Health Authority decisions in question are—
- (a) a decision to refuse admission to the supplementary list under regulation 6(1);
  - (b) a decision to impose a particular condition under regulation 8, or to vary any condition or to impose a different condition under that regulation;
  - (c) any decision on a review of a conditional inclusion under regulation 8;

- (d) any decision to remove the doctor under regulation 10(3), (6) or (7);
  - (e) any decision to impose a particular condition under regulation 12, or to vary any condition or to impose a different condition under that regulation;
  - (f) any decision on a review of a contingent removal under regulation 12.
- (3) On appeal the FHSAA may make any decision which the Health Authority could have made.
- (4) Where the decision of the FHSAA on appeal is that conditions be imposed on the doctor on inclusion in the list, whether or not those conditions are identified with the conditions imposed by the Health Authority, the Health Authority shall ask the doctor to notify it within 28 days of the decision (or such longer period as the Health Authority may agree) whether the doctor wishes to be included on the supplementary list subject to these conditions.
- (5) If the doctor notifies the Health Authority that the doctor does wish to be included in the supplementary list subject to the condition or conditions, the Health Authority shall so include the doctor.
- (6) Where the FHSAA on appeal decides to impose a contingent removal—
- (a) the Health Authority and the doctor may each apply to the FHSAA for the conditions imposed on the doctor to be varied, for different conditions to be imposed, or for the contingent removal to be revoked; and
  - (b) the Health Authority may remove the doctor from the list if it determines that the doctor has failed to comply with a condition.

## **Notification**

**16.—**(1) Where a Health Authority—

- (a) refuses to admit a doctor to its list;
- (b) imposes conditions on the doctor's inclusion under regulation 8;
- (c) removes the doctor under regulation 10;
- (d) removes the doctor contingently under regulation 12; or
- (e) suspends the doctor under regulation 13,

it shall notify the persons and bodies specified in paragraph (2), and shall additionally notify those specified in paragraph (3), if so requested by those persons or bodies in writing (including electronically), of the matters set out in paragraph (4).

(2) Where paragraph (1) applies, a Health Authority shall notify—

- (a) the National Assembly for Wales;
- (b) any Health Authority in Wales that has the doctor, or a body corporate of which the doctor is a director, on any of its lists, or is considering an application for inclusion in any of its lists by such a doctor or body corporate;
- (c) the Scottish Executive;
- (d) the Secretary of State;
- (e) the Northern Ireland Executive;
- (f) the General Medical Council or any other appropriate regulatory body;
- (g) the local medical committee for its area;
- (h) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the doctor in a professional capacity;
- (i) where it is a fraud case, the National Health Service Counter Fraud Service.

(3) The persons or bodies referred to in paragraph (1) are persons or bodies that can establish that they are considering employing the doctor in a professional capacity.

(4) The matters referred to in paragraph (1) are—

- (a) identifying details of the doctor;
- (b) professional registration number;
- (c) date and copy of the decision of the Health Authority;
- (d) a contact name of a person in the Health Authority for further enquiries.

(5) The Health Authority shall send to the doctor concerned a copy of any information about the doctor provided to the persons or bodies listed in paragraph (2) or (3), and any correspondence with that person or body.

(6) Where the Health Authority has notified any of the persons or bodies specified in paragraph (2) or (3) of the matters set out in paragraph (4), it may in addition, if requested by that person or body, notify that person or body what evidence was considered, including representations of the doctor.

(7) Where a Health Authority is notified by the FHSAA that it has imposed a national disqualification on a doctor who was on its list or had applied to be included on its list, it shall notify the persons or bodies listed in paragraph (2)(b), (g), (h) and (i) and paragraph (3).

(8) Where a decision is changed on review or appeal, the Health Authority shall notify the persons or bodies that were notified of the original decision of the later decision.

#### **Amendment of or withdrawal from list**

**17.—**(1) A doctor shall, unless it is impracticable for the doctor to do so, give notice to the Health Authority within 28 days of any occurrence requiring a change in the information recorded about the doctor in the supplementary list and of any change of the doctor's private address.

(2) Where a doctor intends to withdraw from the list, unless it is impracticable for the doctor to do so, the doctor shall give notice in writing to the Health Authority at least three months in advance of that date.

(3) A doctor shall give notice in writing to the Health Authority that the doctor intends to withdraw from the list if the doctor is accepted on to the medical or services list of the Health Authority, or on to the medical, services or supplementary list of another Health Authority.

(4) The Health Authority shall—

- (a) on receiving notice from any doctor pursuant to paragraph (1), amend the list as soon as possible;
- (b) on receiving notice pursuant to paragraph (2), so amend the list, either—
  - (i) on the date which falls 3 months after the date of the notice, or
  - (ii) on the date from which the Health Authority has agreed that the withdrawal shall take effect,

whichever is the earlier;

- (c) on receiving notice pursuant to paragraph (3), immediately remove the doctor's name from the list.

(5) A doctor may withdraw a notice given pursuant to paragraph (1) or (2) at any time until the Health Authority removes the doctor's name from the list.

(6) A notice given pursuant to paragraph (3) may not be withdrawn.

**18.—**(1) Where a Health Authority is investigating a doctor—

(a) for the purpose of deciding whether or not to exercise its powers to remove the doctor under regulation 10 or contingently remove the doctor under regulation 12; or

(b) who has been suspended under regulation 13(1)(a),

the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly for Wales has given the doctor consent, until the matter has been finally determined by the Health Authority.

(2) Where a Health Authority has decided to remove a doctor from a list under regulation 10(3) to (6) or contingently remove under regulation 12, but has not yet given effect to its decision, the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly for Wales has given the doctor consent.

(3) Where a Health Authority has suspended a doctor under regulation 13(1)(b), the doctor may not withdraw from any list kept by any Health Authority in which the doctor is included, except where the National Assembly for Wales has given the doctor consent, until the decision of the relevant court or body is known and the matter has been considered and finally determined by the Health Authority.

### **Payments to suspended doctors**

**19.** The Health Authority shall make payments to any doctor who is suspended from the supplementary list under regulation 13 in accordance with a determination by the National Assembly for Wales.

### **National disqualification**

**20.—**(1) If on making a decision to impose a national disqualification, the FHSAA states that it is of the opinion that the criminal or professional conduct of the doctor is such that there is no realistic prospect of a further review being successful if held within the period specified in section 49N(8) (a), the reference to “two years” in that provision shall be a reference to five years;

(2) If on the last review by the FHSAA of a national disqualification the doctor was unsuccessful and the FHSAA states that it is of the opinion that there is no realistic prospect of a further review being successful if held within a period of three years beginning with the date of its decision on that review, the reference to “one year” in section 49N(8)(b) shall be a reference to three years;

(3) If the FHSAA states that it is of the opinion that because a criminal conviction considered by the FHSAA in reaching the decision that has effect has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” or “one year” in section 49N(8) shall be a reference to the period that has already elapsed;

(4) If the FHSAA is of the opinion that because the decision of a licensing, regulatory or other body has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” or “one year” in section 49N(8) shall be a reference to the period that has already elapsed.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(17)

18th July 2002

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for a supplementary list to be kept by Health Authorities in accordance with the provisions of section 43D of the National Health Service Act 1977 (“the 1977 Act”).

Regulation 2 provides some definitions for the Regulations.

Regulation 3 provides that each Health Authority must prepare and publish a supplementary list.

Regulation 4 sets out how to apply to be included in the list, and requires certain information to be given.

Regulation 5 provides for a doctor to be readmitted to the list in certain circumstances.

Regulation 6 sets out the grounds on which the Health Authority may or must refuse to admit a doctor to the list, and the criteria to which they must have regard.

Regulation 7 sets out the circumstances in which a Health Authority may defer consideration of an application to include a doctor in the medical list, and the procedure to be followed.

Regulation 8 allows Health Authorities to enter a doctor’s name on the list subject to conditions, with the doctor’s consent, until any appeal has been decided.

Regulation 9 provides for a requirement that a doctor notify the Health Authority in writing within 7 days if the doctor, or a company of which the doctor is a director, incurs any criminal convictions or other specified matters.

Regulation 10 provides for the mandatory removal by a Health Authority of any doctor convicted of murder or of a criminal offence and sentenced to over 6 months, and for the discretionary removal on specified grounds.

Regulation 11 sets out the criteria for discretionary removals from the list.

Regulation 12 allows a Health Authority to impose conditions on a doctor who is on the list, and for the doctor to be removed if the doctor fails to comply with those conditions.

Regulation 13 provides for a Health Authority to suspend a doctor from the list if certain conditions are met and for the procedure to be followed.

Regulation 14 provides for review and the procedure to be followed by Health Authorities where the Health Authority decides to conditionally include, conditionally remove, or suspend a doctor from the medical list.

Regulation 15 provides for appeals from specified decisions to be heard by the FHSAA.

Regulation 16 provides for a Health Authority to notify specified persons of specified information relating to decisions to remove, impose conditions or suspend a doctor from the list.

Regulations 17 and 18 provide for the circumstances in which a doctor may withdraw from the list.

Regulation 19 provides for payments to suspended doctors.

Regulation 20 amends the statutory period for review set out in section 49N of the Act in specified circumstances.