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WELSH STATUTORY INSTRUMENTS

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**2002 No. 1896**

**The National Health Service (General Medical Services)  
(Amendment) (Wales) (No. 2) Regulations 2002**

**Amendment of regulation 34A**

**15.** For regulation 34A (payments to suspended doctors) substitute—

“**34A.**—(1) A Health Authority shall make payments to any doctor who is suspended in accordance with the determination of the National Assembly for Wales in relation to such payments.

(2) The National Assembly for Wales shall make the determination in accordance with paragraph (3) after consultation with the organisations referred to in regulation 34(1) and it shall be published in the Statement referred to in regulation 34(1).

(3) The determination may be amended from time to time by the National Assembly for Wales after consultation with the organisations referred to in regulation 34(1), and any amendments shall be published with the Statement referred to in regulation 34(1).

(4) Subject to paragraphs (5) and (6), the determination of the National Assembly for Wales shall be such as to secure that, as far as reasonably practicable, the suspended doctor receives all the payments which would have been due to the doctor pursuant to regulation 34 had the doctor provided such medical services to the doctor’s patients during the period of the doctor’s suspension as are actually provided by the doctor who becomes responsible for them during that period by virtue of regulation 25(2)(a).

(5) To the extent that such payments consist of the reimbursement of expenses for which the doctor must submit a claim, the suspended doctor shall receive reimbursement only in respect of those expenses which the doctor continues to incur during the period of the doctor’s suspension.

(6) The determination shall provide for a deduction to take account of any payments which the suspended doctor receives—

- (a) for providing general medical services as an assistant or deputy;
- (b) for performing personal medical services in connection with a pilot scheme;
- (c) for providing services under Part 1 of the Act.

**Amendment of Schedule 2**

**16.**—(1) Schedule 2 ( terms of service) shall be amended in accordance with the following provisions.

(2) In paragraph 18A(out-of-hours arrangements) for sub-paragraph (7)(h)(i) substitute—

“(i) he has been notified that he is the subject of proceedings by any Health Authority that may lead to his removal from any list held by that Health Authority, or his contingent removal, or that he is subject to conditions imposed on him by a Health Authority under section 43ZA.”.

(3) After paragraph 22(2)(a)(iv) (organisations providing deputy doctors) insert—

“(v) after 31st December 2002 is on a medical list supplementary list, medical list or is named as a performer of personal medical services in a pilot scheme; and”.

(4) In paragraph 23 (assistants and deputies) omit “or” at the end of sub-paragraph (b), and at the end of sub-paragraph (c) insert—

“(d) who has been convicted in the United Kingdom of murder;

(e) who has been convicted in the United Kingdom of a criminal offence after 30th July 2002 and sentenced to a term of imprisonment of over six months;

(f) who is suspended under section 41A of the Medical Act ; or

(g) who is suspended from any Health Authority medical, services or supplementary list.”.

(5) After paragraph 23 (assistants and deputies), add—

“**23A.**—(1) After 31st July 2002 a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless that doctor is on a medical supplementary list or medical list or is named in an agreement under section 2 of the 1997 Act as a performer of personal medical services, or has an outstanding application with a Health Authority under these Regulations, submitted to that Health Authority before 30th October 2002.

(2) After 31st October 2002, a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless that doctor is on a medical supplementary list or medical list or is named in an agreement under section 2 of the 1997 Act as a performer of personal medical services.

(3) After 31st December 2002, subject to sub-paragraphs (4) and (5), a doctor shall not engage as a deputy, or employ as an assistant, any doctor unless—

(a) the deputy or assistant has provided two clinical references, relating to two recent posts (which may include any current post) as a doctor which lasted for at least three months without a significant break, or where this is not possible, a full explanation and alternative referees; and

(b) the engaging or employing doctor has checked and is satisfied with the doctor’s references.

(4) Where a doctor is urgently needed as a deputy, and it is not possible to obtain and check the references in accordance with paragraph (3)(b) before engaging the doctor, the doctor may be engaged on a temporary basis for a single period of up to 14 days whilst the doctor’s references are checked and considered, and for an additional single period of a further 7 days if the doctor believes that the person supplying those references is ill, on holiday or otherwise temporarily unavailable.

(5) Where a doctor uses the same doctor as a deputy on more than one occasion within a period of three months, the engaging doctor may rely on the references provided on the first occasion, provided that those references are not more than twelve months old.”.

(6) After paragraph 36 (records) insert—

**“Information to be supplied**

**36A.**—(1) A doctor shall by 31st October 2002 supply in writing information to the Health Authority as to whether the doctor—

(a) has any criminal convictions in the United Kingdom;

- (b) has been bound over 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 England and Wales, 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; or
- (f) has been subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world and the outcome was adverse;
- (g) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world;
- (h) is to his or her 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 any 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, subject to an investigation into his or her 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.

(2) If the doctor is, has in the preceding six months been, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, the doctor shall in addition the by 31st October 2002 supply in writing information 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 England and Wales 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 any where 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 Services in relation to any fraud case;

- (g) 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;
- (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 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.

(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) or (2).

(4) A doctor shall inform the Health Authority 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 an 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 the United Kingdom, would constitute an 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 his or her professional conduct by any licensing, regulatory or other body;
- (h) becomes subject to an investigation into his or her professional conduct in respect of any current or previous employment, or is notified of the outcome of any such investigation where it is adverse;
- (i) becomes to the doctor's knowledge the subject of any investigation by the National Health Service Counter Fraud Service in relation to any fraud case;
- (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.

(5) A doctor who is, has in the preceding six months been, or was to the doctor's knowledge at the time of any originating events a director of a body corporate, shall in addition inform the Health Authority within 7 days if the 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 in the world with an offence which, if committed in England and Wales, 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 any fraud case or is notified of the outcome of such an investigation where it is 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 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 proceedings took place or are to take place, and any outcome.

(6) Where paragraphs (5) or (6) apply, 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 (4) or (5).

#### **Application to other lists**

**36B** A doctor shall inform the Health Authority—

- (a) if the doctor, or a body corporate of which the doctor is a director, applies to be included in any list by another Health Authority or equivalent body, and of the outcome of any such application; and
- (b) if the doctor becomes a director of a body corporate that is included in any list held by a Health Authority, or has applied to be included in such a list, and the outcome of any such application.”.

(7) After paragraph 50 (annual reports) insert—

**“NCAA Assessment**

**50A** A doctor shall co-operate with an assessment by the NCAA when requested to do so by the Health Authority.

**Appraisal Scheme**

**50B** A doctor shall participate in the appraisal scheme provided by the Health Authority.”.

**Amendment of Schedule 3**

**17.** In Part I of Schedule 3 (information to be included in a report by a Health Authority when making a reference to the Medical Practices Committee), in paragraph 8 omit the words “including details of the declaration made under paragraph 6A of Part III of this Schedule.”.

**18.** In Part III of Schedule 3 ( information and undertakings to be given by a doctor in connection with an application for nomination or approval for a practice vacancy)—

(a) for paragraph 6A substitute—

(a) Information on whether the doctor—

- (i) has any criminal convictions in the United Kingdom;
- (ii) has been bound over to keep the peace in the United Kingdom ;
- (iii) he has accepted a police caution in the United Kingdom;
- (iv) he has been convicted elsewhere of an offence, or what if committed in England and Wales, would constitute a criminal offence or is subject to a penalty which would be the equivalent of being bound over or cautioned;
- (v) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority; or
- (vi) has been subject to any investigation in relation to his or her professional conduct by any licensing, regulatory or other body anywhere in the world where the outcome was adverse;
- (vii) has been subject to an investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world;
- (viii) is to the doctor’s knowledge, or has been where the outcome was adverse, the subject to any investigation by National Health Service Counter Fraud Service in relation to any fraud case;
- (ix) 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;
- (x) 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,

and if so, give details, including approximate dates, of where the investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.”;

- (b) Where the doctor is, has in the preceding six months been, or was to the doctor's knowledge at the time of the originating events a director of a body corporate, the doctor shall in addition supply in writing information to the Health Authority as to whether the body corporate—
- (i) has any criminal convictions in the United Kingdom;
  - (ii) has been 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;
  - (iii) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
  - (iv) 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;
  - (v) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
  - (vi) 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 any fraud case;
  - (vii) 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;
  - (viii) 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, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.”;
- (c) in paragraph 15—
- (i) after “starting and finishing dates of each appointment” insert “, with an explanation of any gaps between appointments.”;
  - (ii) after sub-paragraph (d) insert a new sub-paragraph—
    - “(e) an explanation of why he was dismissed from any post.”;
- (d) at the end of paragraph 18, add “, who are willing to provide clinical references for the last two recent posts, (which may include any current post) as a doctor which lasted for at least three full months without a significant break, and where this is not possible, a full explanation and alternative referees .”;
- (e) for paragraph 19 substitute—
- “**19** If the applicant is not in the Health Authority's medical list, the name of any Health Authority in whose dental, optical, pharmaceutical, supplementary or services list the doctor is included, or from any of those lists or equivalent lists the doctor has been removed or contingently removed or is currently suspended, or from any of whose lists or equivalent lists the doctor has been refused admission or conditionally included, with an explanation as to why, and particulars of any outstanding application (including deferred applications), for inclusion in the medical list, or any other list of a Health Authority, with the name of the Health Authority in question.”;
- (f) after paragraph 19 insert—

“**19A** 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 of the Health Authority in question, and the name and registered office of any such body corporate.”;—

(g) for paragraph 25 substitute—

“**25.** An undertaking to—

- (a) be bound by the terms of service;
- (b) notify the Health Authority within 7 days of any material changes to the information provided in the application until the application is finally determined;
- (c) supply the information required by paragraph 36 of Schedule 2.”;

(h) after paragraph 25 add—

“**26.** Consent to a request being 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 subparagraph (6A).”.