
WELSH STATUTORY INSTRUMENTS

2004 No. 1020

**The National Health Service (Performers
Lists) (Wales) Regulations 2004**

PART 2

PROVISIONS AS TO PERFORMERS LISTS

Application for inclusion in a performers list

4.—(1) An application by a performer for the inclusion of the performer's name in a performers list shall be made by sending the Local Health Board an application in writing, which shall include the information mentioned in paragraph (2), the undertakings, certificate, authority and consents required by paragraphs (3), and (6) any declaration required under paragraph (4) or (5) and any further information, undertakings, consents or documentation required under paragraph (7) or the relevant Part.

(2) The performer shall provide the following information—

- (a) full name;
- (b) sex;
- (c) date of birth;
- (d) private address and telephone number;
- (e) chronological details of professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments) with any additional supporting particulars, and an explanation of why the performer was dismissed from any post;
- (f) 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 performer which lasted at least three months without a significant break, and where this is not possible, a full explanation and the names and addresses of alternative referees;
- (g) whether the performer has any outstanding application, including a deferred application, to be included in a list or an equivalent list, and if so, particulars of that application;
- (h) details of any list or any equivalent list from which the performer has been removed or contingently removed, or to which the performer has been refused admission or in which the performer has been conditionally included, with an explanation as to why;
- (i) if the performer is the director of any body corporate that is included in any list or any equivalent list, or which has an outstanding application (including a deferred application) for inclusion in any list or equivalent list, the name and registered office of that body and details of the Local Health Board or equivalent body concerned; and
- (j) where the performer is, or was in the preceding six months, or was at the time of the originating events, a director of a body corporate, details of any list or equivalent list to which that body has been refused admission, in which it has been conditionally included,

from which it has been removed or contingently removed or from which it is currently suspended, with an explanation as to why and details of the Local Health Board or equivalent body concerned.

- (3) The performer shall provide the following undertakings, certificate and consent —
- (a) undertaking to provide the declarations and document, if applicable, required by regulation 9;
 - (b) undertaking to notify the Local Health Board within 7 days of any material changes to the information provided in the application until the application is finally determined or, if the performer's name is included in the performers list, at any time when the performer's name is included in that list;
 - (c) undertaking to notify the Local Health Board if the performer is included, or applies to be included, in any other list held by a Local Health Board or equivalent body;
 - (d) undertaking to co-operate with an assessment by the NCAA when requested to do so by the Local Health Board;
 - (e) undertaking, except where in the relevant Part provides to the contrary, to participate in an appraisal system provided on behalf of the Local Health Board;
 - (f) an enhanced criminal record certificate, under section 115 of the Police Act 1997⁽¹⁾, in relation to the performer; and
 - (g) consent to the disclosure of information in accordance with regulation 9.
- (4) The performer shall send with the application a declaration as to whether the performer—
- (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 accepted and agreed to pay either a procurator fiscal fine under section 302 of the Criminal Procedure (Scotland) Act 1995⁽²⁾ or a penalty under section 115A of the Social Security Administration Act 1992⁽³⁾;
 - (e) has, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging the performer absolutely (without proceeding to conviction);
 - (f) 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;
 - (g) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Local Health Board;
 - (h) has been subject to any investigation into his professional conduct by any licensing, regulatory or other body, where the outcome was adverse;
 - (i) is currently subject to any investigation into the performer's professional conduct by any licensing, regulatory or other body;
 - (j) is to the performer's knowledge, or has been where the outcome was adverse, the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud;
 - (k) is the subject of any investigation by another Local Health Board or equivalent body, which might lead to the performer's removal from any of that Local Health Board's lists or any equivalent lists;

(1) 1997 c. 50.

(2) 1995 c. 46.

(3) 1992 c. 5; section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c. 47).

- (l) is, or has been where the outcome was adverse, the subject of any investigation into the performer's professional conduct in respect of any current or previous employment;
- (m) has been removed from, contingently removed from, refused admission to, or conditionally included in any list or equivalent list kept by a Local Health Board or equivalent body, or is currently suspended from such a list and if so, why and the name of that Local Health Board or equivalent body; or
- (n) is, or has ever been, subject to a national disqualification,

and, if so, the performer shall 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 performer is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate, the performer shall in addition make a declaration to the Local Health Board 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 Local Health Board;
- (d) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body, 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;
- (f) is to the performer's knowledge, or has been where the outcome was adverse, the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud;
- (g) is the subject of any investigation by another Local Health Board or equivalent body, which might lead to its removal from any performers list or equivalent performers list; or
- (h) has been removed from, contingently removed from, refused admission to, or conditionally included in any performers list or equivalent performers list or is currently suspended from such a performers 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 performer shall provide all necessary authority to enable a request to be made by the Local Health Board 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, into the performer or a body corporate referred to in paragraphs (2) and (5) and for the purpose of this paragraph, "employer" includes any partnership of which the performer is or was a member.

(7) If in the case of any application, the Local Health Board finds that the information, references or documentation supplied by the performer are not sufficient for it to decide the performer's application, it shall seek from that performer such further information, references or documentation as it may reasonably require in order to make a decision and that performer shall supply the material so sought to the Local Health Board.

Status: *This is the original version (as it was originally made).*
