
STATUTORY INSTRUMENTS

2004 No. 585

The National Health Service
(Performers Lists) Regulations 2004

PART 1

GENERAL PROVISIONS AS TO PERFORMERS LISTS

Deferment of decision on application

7.—(1) A Primary Care Trust may defer a decision on a performer's application to be included in a performers list, where—

- (a) there are, in respect of him—
 - (i) criminal proceedings in the United Kingdom, or
 - (ii) proceedings elsewhere in the world relating to conduct, which, if it had occurred in the United Kingdom, would constitute a criminal offence, which, if they resulted in a conviction, or the equivalent of a conviction, would be likely to lead to his removal from its performers list, if he were to be included in it;
- (b) in respect of a body corporate of which he is, has in the preceding 6 months been, or was at the time of the originating events a director there are—
 - (i) criminal proceedings in the United Kingdom, or
 - (ii) proceedings elsewhere in the world relating to conduct, which, if it had occurred in the United Kingdom, would constitute a criminal offence, which, if they resulted in a conviction, or the equivalent of a conviction, would be likely to lead to his removal from its performers list, if he were to be included in it;
- (c) there is an investigation anywhere in the world by his licensing or regulatory body or any other investigation (including one by another Primary Care Trust or equivalent body) relating to him in his professional capacity that, if adverse, would be likely to lead to his removal from its performers list, if he were to be included in it;
- (d) he is suspended from any list or equivalent list;
- (e) a body corporate of which he is, has in the preceding six months been, or was at the time of the originating events a director, is suspended from any list or equivalent list;
- (f) the FHSAA is considering an appeal by him against a decision of a Primary Care Trust to refuse to include him in its performers list, or to conditionally include him in or to contingently remove him from, or to remove him from any list kept by a Primary Care Trust and if that appeal is unsuccessful the Trust would be likely to remove him from its performers list, if he were to be included in it;
- (g) the FHSAA is considering an appeal by a body corporate of which he is, has in the preceding six months been, or was at the time of the originating events a director, against a decision of a Primary Care Trust or equivalent body to refuse to admit the body corporate to its list, or to conditionally include it in or to remove or contingently remove it from any

- list kept by a Primary Care Trust or equivalent body, and if that appeal is unsuccessful the Trust would be likely to remove him from its performers list, if he were to be included in it;
- (h) he is being investigated by the NHS Counter Fraud and Security Management Service in relation to any fraud, where the result, if adverse, would be likely to lead to his removal from the Trust's performers list, if he were to be included in it;
 - (i) a body corporate, of which he is, has in the preceding six months been, or was at the time of the originating events a director, is being investigated in relation to any fraud, where the result, if adverse, would be likely to lead to his removal from the Trust's performers list, if he were to be included in it; and
 - (j) the FHSAA is considering an application from a Primary Care Trust for the national disqualification of him or a body corporate of which he is, has in the preceding six months been, or was at the time of the originating events a director.
- (2) The Primary Care Trust may only defer a decision under paragraph (1) above until the outcome of the relevant event mentioned in any of sub-paragraphs (a) to (j) is known.
- (3) The Primary Care Trust must notify the performer that it has deferred a decision on the application and the reasons for it.
- (4) Once the outcome of the relevant event mentioned in paragraph (1) is known, the Primary Care Trust shall notify the performer that he must within 28 days of the date of the notification (or such longer period as it may agree)—
- (a) update his application; and
 - (b) confirm in writing that he wishes to proceed with his application.
- (5) Provided any additional information has been received within the 28 days or the time agreed, the Primary Care Trust shall notify the performer as soon as possible that—
- (a) his application to be included in its performers list has been successful; or
 - (b) it has decided to refuse the application or impose conditions on his inclusion, and of the reasons for that (including any facts relied upon), and of any right of appeal under regulation 15.