



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

**2006 Rhif 181 (Cy.32)**

**2006 No. 181 (W.32)**

**GWASANAETH IECHYD  
GWLADOL, CYMRU**

**NATIONAL HEALTH  
SERVICE, WALES**

Rheoliadau'r Gwasanaeth Iechyd  
Gwladol (Rhestr Atodol  
Gwasanaethau Offthalmig  
Cyffredinol) a (Gwasanaethau  
Offthalmig Cyffredinol) (Diwygio  
a Diwygiad Canlyniadol) (Cymru)  
2006

The National Health Service  
(General Ophthalmic Services  
Supplementary List) and (General  
Ophthalmic Services) (Amendment  
and Consequential Amendment)  
(Wales) Regulations  
2006

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

*(Nid yw'r nodyn hwn yn rhan o'r Rheoliadau)*

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

Mae Rhan 1 o'r Rheoliadau hyn yn darparu ar gyfer rhestr atodol i'r rhai sy'n helpu i gyflenwi gwasanaethau offthalmig cyffredinol sydd i'w cadw gan Fyrddau Iechyd Lleol yn unol â darpariaethau adran 43D o Ddeddf Gwasanaeth Iechyd Gwladol 1977 ("Deddf 1977").

Part 1 of these Regulations provides for a supplementary list for those assisting in the provision of general ophthalmic services to be kept by Local Health Boards in accordance with the provisions of section 43D of the National Health Service Act 1977 ("the 1977 Act").

Mae Rheoliad 2 yn cynnwys diffiniadau ar gyfer y Rheoliadau.

Regulation 2 contains definitions for the Regulations.

Mae Rheoliad 3 yn darparu bod rhaid i bob Bwrdd Iechyd Lleol baratoi a chyhoeddi rhestr atodol. Mae hefyd yn darparu na all ymarferydd meddygol offthalmig neu optegydd ("ymarferydd") helpu i berfformio gwasanaethau offthalmig cyffredinol oni bai bod ei enw wedi ei gynnwys ar restr o'r fath neu ar restr offthalmig.

Regulation 3 provides that each Local Health Board must prepare and publish a supplementary list. It also provides that no ophthalmic medical practitioner or optician ("a practitioner") may assist in performing general ophthalmic services unless his or her name is included in such a list or an ophthalmic list.

Mae Rheoliad 4 yn nodi sut mae gwneud cais i fod yn gynnwysedig ar y rhestr ac yn ei gwneud yn ofynnol i wybodaeth arbennig gael ei rhoi. Mae'n llacio'r gofynion ar gyfer ymarferydd sydd wedi ei gynnwys ar restr offthalmig y Bwrdd Iechyd Lleol hwnnw.

Regulation 4 sets out how to apply to be included in the list and requires certain information to be given. It relaxes those requirements for a practitioner who is included in the ophthalmic list of that Local Health Board.

Mae Rheoliad 5 yn darparu ar gyfer ailgynnwys ymarferydd ar y rhestr atodol ar ôl apelio'n llwyddiannus yn erbyn collfarn.

Regulation 5 provides for a practitioner to be readmitted to the supplementary list on a successful appeal against conviction.

Mae Rheoliad 6 yn nodi ar ba sail y caiff y Bwrdd Iechyd Lleol wrthod neu ar ba sail y mae'n rhaid iddo wrthod derbyn ymarferydd i'r rhestr atodol, a'r materion y mae'n rhaid i'r Bwrdd Iechyd roi sylw iddynt.

Mae Rheoliad 7 yn nodi'r amgylchiadau lle y caiff Bwrdd Iechyd Lleol ohirio ystyried cais i gynnwys ymarferydd ar y rhestr atodol ac yn nodi'r weithdrefn i'w dilyn mewn perthynas â hynny.

Mae Rheoliad 8 yn caniatáu i Fwrdd Iechyd Lleol gynnwys enw ymarferydd ar y rhestr atodol yn ddarostyngedig i amodau. Mae hefyd yn caniatáu i enw ymarferydd gael ei gynnwys ar y rhestr honno, hyd nes bydd unrhyw apêl yn erbyn yr amodau wedi cael ei phenderfynu, cyn belled â bod yr ymarferydd yn cytuno i gael ei rwymo gan yr amodau hyd nes y bydd yr apêl wedi cael ei phenderfynu.

Mae Rheoliad 9 yn darparu ar gyfer gofyniad bod ymarferydd yn hysbysu'r Bwrdd Iechyd Lleol yn ysgrifenedig, o fewn 7 diwrnod, os bydd yr ymarferydd, neu gwmni y mae'n gyfarwyddwr iddo, yn destun unrhyw gollfarn droseddol neu os bydd materion penodol eraill yn digwydd.

Mae Rheoliad 10 yn darparu y caiff Bwrdd Iechyd Lleol dynnu'n orfodol oddi ar ei restr atodol unrhyw ymarferydd sydd wedi cael ei gollfarnu o lofruddiaeth neu dramgwydd troseddol ac wedi cael ei ddedfrydu i dros 6 mis o garchar, ac mae'n rhoi disgrisiwn i dynnu'r ymarferydd oddi ar y rhestr ar seiliau penodol eraill.

Mae Rheoliad 11 yn nodi'r meini prawf ar gyfer penderfyniadau ynglyn â thynnu enwau oddi ar y rhestr atodol yn ôl disgrisiwn.

Mae Rheoliad 12 yn darparu bod Bwrdd Iechyd Lleol yn gosod amodau ar ymarferydd sydd â'i enw wedi ei gynnwys ar y rhestr atodol ac i'r ymarferydd gael ei dynnu oddi ar y rhestr os na fydd yn cydymffurfio â'r amodau hynny.

Mae Rheoliad 13 yn darparu bod Bwrdd Iechyd Lleol yn atal ymarferydd dros dro o'r rhestr atodol, os bodlonir amodau penodol, mae'n darparu ar gyfer y weithdrefn sydd i'w dilyn ac ar gyfer taliadau i ymarferwyr sydd wedi eu hatal dros dro.

Mae Rheoliad 14 yn darparu ar gyfer adolygu ac ar gyfer y weithdrefn sydd i'w dilyn gan Fyrddau Iechyd Lleol lle mae'r Bwrdd Iechyd Lleol yn penderfynu cynnwys yn amodol, tynnu ymarferydd yn amodol, neu atal ymarferydd dros dro, o'r rhestr atodol.

Mae Rheoliad 15 yn gwneud darpariaeth i'r FHSAA i wrando ar apeliadau i benderfyniadau penodol.

Mae Rheoliad 16 yn darparu ar gyfer Bwrdd Iechyd Lleol i hysbysu personau penodol ynglyn â gwybodaeth benodol sy'n ymwneud â phenderfyniadau i wrthod derbyn, i osod amodau, i dynnu ymarferydd (neu i dynnu'n amodol) neu i atal ymarferydd dros dro o'r rhestr atodol.

Regulation 6 sets out the grounds on which the Local Health Board may or must refuse to admit a practitioner to the supplementary list, and the matters to which it must have regard.

Regulation 7 sets out the circumstances in which a Local Health Board may defer consideration of an application to include a practitioner in the supplementary list and the procedure to be followed in that respect.

Regulation 8 allows a Local Health Board to enter a practitioner's name in the supplementary list subject to conditions. It also allows a practitioner's name to be included in that list, until any appeal against the conditions has been decided, provided that the practitioner agrees to be bound by the conditions until the appeal has been determined.

Regulation 9 provides for a requirement that a practitioner notify the Local Health Board in writing, within 7 days, if the practitioner, or a company of which he or she is a director, incurs any criminal convictions or other specified matters occur.

Regulation 10 provides for the mandatory removal from its supplementary list by a Local Health Board of any practitioner convicted of murder or of a criminal offence and sentenced to over 6 months imprisonment and for discretion to remove a practitioner on specified grounds.

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

Regulation 12 provides for a Local Health Board to impose conditions on a practitioner whose name is included in the supplementary list and for the practitioner to be removed if he or she fails to comply with those conditions.

Regulation 13 provides for a Local Health Board to suspend a practitioner from the supplementary list, if certain conditions are met, for the procedure to be followed and for payments to suspended practitioners.

Regulation 14 provides for review and the procedure to be followed by Local Health Boards where the Local Health Board decides to conditionally include, contingently remove, or suspend a practitioner from the supplementary list.

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

Regulation 16 provides for a Local Health Board to notify specified persons of specified information relating to decisions to refuse to admit, impose conditions, remove (or contingently remove) or suspend a practitioner from the supplementary list.

Mae Rheoliad 17 yn darparu ar gyfer yr amgylchiadau lle y caiff a lle na chaiff ymarferydd dynnu ei enw yn ôl o'r rhestr atodol ac mae rheoliad 18 yn darparu ar gyfer yr amgylchiadau lle na all ymarferydd dynnu ei enw yn ôl o'r rhestr atodol.

Mae Rheoliad 19 yn diwygio'r cyfnodau statudol ar gyfer adolygu sydd wedi eu nodi yn adran 49N o Ddeddf 1977 mewn amgylchiadau penodol.

Mae Rheoliad 20 yn darparu ar gyfer datgelu gwybodaeth i bersonau penodol.

Mae Rheoliad 21 yn gwneud darpariaethau trosiannol i ymarferwyr a oedd eisoes yn helpu i ddarparu gwasanaethau offthalmig cyffredinol cyn i'r Rheoliadau hyn ddod i rym barhau i wneud hynny hyd at 1 Awst 2006, tra bod eu cais i gael eu cynnwys ar restr atodol yn cael ei benderfynu. Mae hefyd yn gwneud darpariaeth debyg ar gyfer y rhai sy'n gwneud cais i gael eu cynnwys ar restr yn ystod y chwe wythnos gyntaf ar ôl i'r Rheoliadau hyn ddod i rym ac mae'n gwneud darpariaeth i drosglwyddo, i restr atodol, enwau sydd wedi cael eu cynnwys yn anghywir ar restr offthalmig.

Mae Rhan 2 o'r Rheoliadau hyn (rheoliadau 22 i 41) yn diwygio Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Offthalmig Cyffredinol) 1986 ("Rheoliadau 1986"), sy'n rheoleiddio telerau ymarferwyr meddygol offthalmig ac optegwyr ar gyfer darparu gwasanaethau offthalmig cyffredinol o dan Ddeddf 1977, er mwyn sicrhau darpariaeth debyg mewn perthynas â rhestri offthalmig i'r hyn a ddarperir yn y Rheoliadau hyn ar gyfer rhestri atodol.

Mae Rhan 2 hefyd yn gwneud darpariaeth bellach ar gyfer optegwyr sy'n gyrrff corfforaethol sy'n ymarfer fel optegwyr offthalmig ("optegwyr corfforaethol"), mae'n ymestyn categorïau personau y gellir eu cynnwys ar restr offthalmig (yn rheoliad 39(2) i (5)) ac yn gwneud darpariaeth mewn perthynas â gwasanaethau symudol (yn rheoliadau 23(2) a (3), 24(3), 25(2) a 39(2), (3) a (5)). Mae'n diwygio Rheoliadau 1986 ymhellach (yn rheoliad 39(9) er mwyn gwneud yn glir pwy all lofnodi cais am daliad ac yn darparu ar gyfer achosion pan fo angen ail lofnod hefyd.

Mae Rhan 2 hefyd yn diwygio Rheoliadau 1986 (yn rheoliad 39(10)) er mwyn darparu ar gyfer optegwyr fel y gallant gyfeirio cleifion at feddyg yng ngwasanaeth llygaid yr ysbyty, rhoi gwybod i feddyg y claf a rhoi datganiad i'r claf i'r perwyl hwnnw. Mae'n ofynnol yn ôl Rheoliad 41 bod optegwyr corfforaethol sydd eisoes wedi eu cynnwys ar restr offthalmig yn darparu gwybodaeth bellach sy'n ofynnol o dan y Rheoliadau hyn erbyn 1 Awst 2006 ac yn gwneud darpariaethau trosiannol eraill.

Mae Rhan 3 yn cynnwys diwygiad (rheoliad 43) i Rheoliadau'r Gwasanaeth Iechyd Gwladol (Costau a Thaliadau Optegol) 1997 i wneud darpariaeth ar gyfer cyflwyno rhestri atodol.

Regulation 17 provides for the circumstances in which a practitioner may or may not withdraw from the supplementary list and regulation 18 provides for the circumstances in which an practitioner may not withdraw from the supplementary list.

Regulation 19 amends the statutory periods for review set out in section 49N of the 1977 Act in specified circumstances.

Regulation 20 provides for the disclosure of information to specified persons.

Regulation 21 makes transitional provisions for practitioners already assisting in the provision of general ophthalmic services before the coming into force of these Regulations to continue to do so until not later than 1 August 2006, while their applications for inclusion in a supplementary list are determined. It also makes like provision for those applying for inclusion in a list in the first six weeks after the coming into force of these Regulations and makes provision for those wrongly included in an ophthalmic list to be transferred to a supplementary list.

Part 2 of these Regulations (regulations 22 to 41) amends the National Health Service (General Ophthalmic Services) Regulations 1986 ("the 1986 Regulations"), which regulate the terms on which ophthalmic medical practitioners and opticians provide general ophthalmic services under the 1977 Act, to ensure like provision in relation to ophthalmic lists to that provided in these Regulations for supplementary lists.

Part 2 also makes further provision for opticians which are corporate bodies practising as ophthalmic opticians ("corporate opticians"), extends the categories of persons who may be included in an ophthalmic list (in regulation 39(2) to (5)) and makes provision in relation to mobile services (in regulations 23(2) and (3), 24(3), 25(2) and 39(2), (3) and (5)). It further amends the 1986 Regulations (in regulation 39(9) so as to clarify who may sign a claim for payment and provides when a counter-signature is also required.

Part 2 also amends the 1986 Regulations (in regulation 39(10)) so as to provide for opticians to refer patients to a doctor within the hospital eye service, to so inform the patient's doctor and to give the patient a statement to that effect. Regulation 41 requires corporate opticians already included in an ophthalmic list to provide further information required under these Regulations by 1 August 2006 and makes other transitional provisions.

Part 3 contains an amendment (regulation 43) to the National Health Service (Optical Charges and Payments) Regulations 1997 to make provision for the introduction of supplementary lists.

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GWLADOL, CYMRU****NATIONAL HEALTH  
SERVICE, WALES**

Rheoliadau'r Gwasanaeth Iechyd  
Gwladol (Rhestr Atodol  
Gwasanaethau Offthalmig  
Cyffredinol) a (Gwasanaethau  
Offthalmig Cyffredinol) (Diwygio  
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2006

The National Health Service  
(General Ophthalmic Services  
Supplementary List) and (General  
Ophthalmic Services) (Amendment  
and Consequential Amendment)  
(Wales) Regulations  
2006

*Wedi'i wneud* 31 Ionawr 2006  
*Yn dod i rym, ac eithrio*  
*ar gyfer rheoliad 39(11)* 1 Chwefror 2006  
*Rheoliad 39(11)* 1 Awst 2006

*Made* 31 January 2006  
*Coming into force, except*  
*for regulation 39(11)* 1 February 2006  
*Regulation 39(11)* 1 August 2006

## TREFN Y RHEOLIADAU

## ARRANGEMENT OF REGULATIONS

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1. Title, commencement and application

## RHAN 1

## PART 1

## Rhestr Atodol

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## PART 3

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44. Amendment of regulations 4 and 6 of the Charges and Payments Regulations.

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd gan adrannau 38, 39, 43ZA, 43D, 49F, 49I, 49M, 49N, 49O, 49P, 49Q, 49R, a 126(4) o'r Ddeddf Gwasanaeth Iechyd Gwladol (1) ac adran 65 o Ddeddf Iechyd a Gofal Cymdeithasol 2001(2) drwy hyn yn gwneud y Rheoliadau canlynol:

### Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Offthalmig Cyffredinol) a (Gwasanaethau Offthalmig Cyffredinol) (Diwygio a Diwygiad Canlyniadol) 2006 ac, ar wahân i reoliad 39(11), byddant yn dod i rym ar 1 Chwefror 2006.

(2) Bydd Rheoliad 39(11) yn dod i rym ar 1 Awst 2006.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

The National Assembly for Wales, in exercise of the powers conferred by sections 38, 39, 43ZA, 43D, 49F, 49I, 49M, 49N, 49O, 49P, 49Q, 49R, and 126(4) of the National Health Service Act(1) and section 65 of the Health and Social Care Act 2001(2) hereby makes the following Regulations:

### Title, commencement and application

1.-(1) The title of these Regulations is the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) Regulations 2006 and, except for regulation 39(11), they come into force on 1 February 2006.

(2) Regulation 39(11) comes into force on 1 August 2006.

(3) These Regulations apply in relation to Wales.

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(1) 1977 p.49 ("Deddf 1977"); gweler adran 128(1) fel y'i diwygiwyd gan y Ddeddf Gwasanaeth Iechyd Gwladol a Gofal Cymunedol 1990, adran 26(2)(g) ac (i), ar gyfer diffiniadau "prescribed" a "regulations".

Diwygiwyd adran 38 gan Ddeddf Iechyd a Nawdd Cymdeithasol 1984 (p.48)("Deddf 1984"), adran 1(3); Deddf Iechyd a Meddygyniaethau 1988 (p.49), adran 13; gan O.S.1985/39, erthygl 7(11); Deddf Awdurdodau Iechyd 1995 (p.17) ("Deddf 1995") adran 2(1) a pharagraffau 1 a 27 o'r Atodlen; a gan Ddeddf Diwygio'r Gwasanaeth Iechyd Gwladol a Phroffesiynau Gofal Iechyd 2002 (p.17) ("Deddf 2002"), adran 2(5) a pharagraffau 1 ac 11 o Atodlen 2.

Diwygiwyd adran 39 gan Ddeddf 1984, adran 1 a pharagraff 1 o Atodlen 1 ac Atodlen 8; Deddf 1995, adran 2 a pharagraff 28 o Atodlen 1; Deddf Iechyd 1999 (p.8) ("Deddf 1999"), adran 9(4); gan Ddeddf Iechyd a Gofal Cymdeithasol 2001 (p.15) ("Deddf 2001"), adrannau 20 a 23; a chan Ddeddf 2002, adran 2(5) a pharagraffau 1 a 12 o Atodlen 2.

Mewnosodwyd adrannau 43ZA a 43D gan Ddeddf 2001, adrannau 21 a 24.

Mewnosodwyd adrannau 49F, 49I, 49L, 49M, 49N, 49P a 49Q gan Ddeddf 2001, adran 25.

Diwygiwyd adran 126(4) gan Ddeddf 1990, adran 65(2) a chan baragraff 37(6) i Atodlen 4 i Ddeddf 1999 Act a gan Ddeddf 2001, adran 67 a pharagraff 5(13)(b) i Atodlen 5.

Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 38, 39 a 126(4) i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S.1999/672, erthygl 2 ac Atodlen 1 fel y'i diwygiwyd gan Ddeddf 1999, adran 66(5); gan Ddeddf 2001, adran 68(1), gan Ddeddf 2002, adran 40(1) a thrwy Ddeddf Iechyd a Gofal Cymdeithasol (Iechyd Cymunedol a Safonau) 2003 (p.43), adran 1971(1).

(2) 2001 p.15.

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(1) 1977 c.49 ("the 1977 Act"); see section 128(1) as amended by the National Health Service and Community Care Act 1990, section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations".

Section 38 was amended by the Health and Social Security Act 1984 (c.48)("the 1984 Act"), section 1(3); the Health and Medicines Act 1988 (c.49), section 13; by S.I.1985/39, article 7(11); the Health Authorities Act 1995 (c.17) ("the 1995 Act") section 2(1) and paragraphs 1 and 27 of the Schedule; and by the National Health Service Reform and Health Care Professions Act 2002 (c.17) ("the 2002 Act"), section 2(5) and paragraphs 1 and 11 of Schedule 2.

Section 39 was amended by the 1984 Act, section 1 and paragraph 1 of Schedule 1 and Schedule 8; the 1995 Act, section 2 and paragraph 28 of Schedule 1; the Health Act 1999 (c.8) ("the 1999 Act"), section 9(4); by the Health and Social Care Act 2001 (c.15) ("the 2001 Act"), sections 20 and 23; and by the 2002 Act, section 2(5) and paragraphs 1 and 12 of Schedule 2.

Sections 43ZA and 43D were inserted by the 2001 Act, sections 21 and 24.

Sections 49F, 49I, 49L, 49M, 49N, 49P and 49Q were inserted by the 2001 Act, section 25.

Section 126(4) was amended by the 1990 Act, section 65(2) and by paragraph 37(6) to Schedule 4 to the 1999 Act and by the 2001 Act, section 67 and paragraph 5(13)(b) to Schedule 5.

The functions of the Secretary of State under sections 38, 39 and 126(4) were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672, article 2 and Schedule 1 as amended by the 1999 Act, section 66(5); by the 2001 Act, section 68(1), by the 2002 Act, section 40(1) and by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), section 1971(1).

(2) 2001 c.15.

## RHAN 1

### Rhestr Atodol

#### Dehongliad

##### 2.-(1) Yn y Rhan hon-

ystyr "achos o dwyll" ("*fraud case*") yw achos lle mae person yn bodloni'r ail amod i gael ei dynnu oddi ar restr offthalmig, fel sydd wedi ei nodi yn adran 49F(3), neu berson sydd, yn rhinwedd adran 49H, yn cael ei drin fel pe bai wedi cael ei dynnu oddi ar y rhestr;

ystyr "anghymhwysiad cenedlaethol" ("*a national disqualification*") yw penderfyniad-

- (a) a wnaed gan yr FHSAA i anghymhwyso'n genedlaethol ymarferydd meddygol offthalmig neu optegydd o dan adran 49N;
- (b) i anghymhwyso'n genedlaethol ymarferydd meddygol offthalmig neu optegydd o dan ddarpariaethau sydd mewn grym yn yr Alban neu Ogledd Iwerddon sy'n cyfateb i adran 49N; neu
- (c) gan y Tribiwnlys, sy'n cael ei drin fel anghymhwysiad cenedlaethol gan yr FHSAA yn rhinwedd rheoliad 6(4) o Reoliadau Diddymu'r Tribiwnlys, neu reoliad 6(4) o Reoliadau Diddymu'r Tribiwnlys (Cymru);

ystyr "atal dros dro" ("*suspended*") yw-

- (a) atal dros dro gan y Bwrdd Iechyd Lleol neu gorff cyfatebol o dan adran 49I neu 49J, neu reoliadau a wnaed o dan adran 28DA neu 43D neu o dan adran 8ZA o'r Ddeddf Gofal Sylfaenol (1);
- (b) mewn perthynas â'r Alban neu Ogledd Iwerddon, atal dros dro o dan ddarpariaethau mewn grym sy'n cyfateb i'r rhai yn adrannau 28DA, 43D, 49I, 49J neu a wnaed o danynt neu o dan adran 8ZA o'r Ddeddf Gofal Sylfaenol,

a bydd yn cael ei drin fel pe bai'n cynnwys achos lle mae person yn cael ei drin fel pe bai wedi cael ei atal dros dro gan Fwrdd Iechyd Lleol, neu cyn 1 Ebrill 2003, gan Awdurdod Iechyd yn rhinwedd rheoliad 6(2) o Reoliadau Diddymu'r Tribiwnlys (Cymru), neu yn Lloegr, gan Ymddiriedolaeth Gofal Sylfaenol, neu cyn 1 Hydref 2002 gan Awdurdod Iechyd yn rhinwedd rheoliad 6(2) o Reoliadau Diddymu'r Tribiwnlys, a dylid dehongli "atal dros dro" yn unol â hynny;

ystyr "corff cyfatebol" ("*equivalent body*") yw-

- (a) Ymddiriedolaeth Gofal Sylfaenol yn Lloegr;
- (b) Bwrdd Iechyd neu Ymddiriedolaeth

(1) Mewnosodwyd adran 8ZA gan Ddeddf 2001, adran 26(2) a fe'i diwygiwyd gan Ddeddf 2002, Atodlen 3, paragraff 3.

## PART 1

### Supplementary List

#### Interpretation

##### 2.-(1) In this Part-

"Abolition of the Tribunal Regulations" ("*Diddymu Rheoliadau'r Tribiwnlys*") means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001(1);

"Abolition of the Tribunal (Wales) Regulations" ("*Diddymu Rheoliadau'r Tribiwnlys*" (Cymru)) means the Abolition of National Health Service Tribunal (Consequential Provisions) Regulations 2002(2);

"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" should be construed accordingly;

"equivalent body" ("*corff cyfatebol*") means-

- (a) a Primary Care Trust in England;
- (b) a Health Board or NHS Trust in Scotland;
- (c) a Health and Social Services Board in Northern Ireland;
- (d) in relation to any time prior to 1 October 2002, a Health Authority in England; or
- (e) in relation to any time prior to 1 April 2003, a Health Authority in Wales;

"equivalent list" ("*rhestr gyfatebol*") means a list kept by an equivalent body;

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

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

"general ophthalmic services" ("*gwasanaethau offthalmig cyfredinol*") means the services which a person whose name is included in an ophthalmic list had undertaken to provide, pursuant to paragraph 10 of Schedule 1 to the Ophthalmic

(1) S.I.2001/3744

(2) S.I.2002/1920

Gwasanaeth Iechyd Gwladol yn yr Alban;

- (c) Bwrdd Iechyd a Gwasanaethau Cymdeithasol yng Ngogledd Iwerddon;
- (ch) mewn perthynas ag unrhyw amser cyn 1 Hydref 2002, Awdurdod Iechyd yn Lloegr; neu
- (d) mewn perthynas ag unrhyw amser cyn 1 Ebrill 2003, Awdurdod Iechyd yng Nghymru;

ystyr "corff trwyddedu neu reoleiddio" ("*licensing or regulatory body*") yw corff sy'n trwyddedu neu'n rheoleiddio unrhyw broffesiwn y mae'r ymarferydd meddygol offthalmig neu optegydd yn aelod ohono, neu y bu'n aelod ohono yn y gorffennol, gan gynnwys corff sy'n rheoleiddio neu'n trwyddedu addysg, hyfforddiant neu gymwysterau'r proffesiwn hwnnw, ac mae'n cynnwys unrhyw gorff sy'n trwyddedu neu'n rheoleiddio unrhyw broffesiwn o'r fath, ei addysg, hyfforddiant neu gymwysterau, tu allan i'r Deyrnas Unedig;

ystyr "cyfarwyddwr" ("*director*") yw-

- (a) cyfarwyddwr corff corfforaethol; neu
- (b) aelod o'r corff o bersonau sy'n rheoli corff corfforaethol (boed yn bartneriaeth atebolrwydd cyfyngedig neu beidio);

ystyr "cyflogaeth" ("*employment*") yw unrhyw gyflogaeth, boed am dâl neu'n ddi-dâl a boed o dan gontract am wasanaethau neu'n gontract gwasanaeth, a dylai "cyflogedig" a "chyflogwr" gael eu dehongli yn unol â hynny;

ystyr "Deddf Gofal Sylfaenol" ("*Primary Care Act*") yw Deddf y Gwasanaeth Iechyd Gwladol (Gofal Sylfaenol) 1997(1);

ystyr "Diddymu Rheoliadau'r Tribiwnlys" ("*Abolition of the Tribunal Regulations*") yw Diddymu Rheoliadau Tribiwnlys y Gwasanaeth Iechyd Gwladol (Darpariaethau Canlyniadol) 2001(2);

ystyr "Diddymu Rheoliadau'r Tribiwnlys (Cymru)" ("*Abolition of the Tribunal (Wales) Regulations*") yw Diddymu Rheoliadau Tribiwnlys y Gwasanaeth Iechyd Gwladol (Darpariaethau Canlyniadol) 2002(3);

ystyr "digwyddiadau cychwynnol" ("*originating events*") yw'r digwyddiadau a arweiniodd at y gollfarn, ymchwiliad, achos, atal dros dro, gwrthod mynediad, cynnwys yn amodol, tynnu oddi ar restr neu dynnu'n amodol;

ystyr "y Ddeddf Optegwyr" ("*Opticians Act*") yw Deddf Optegwyr 1989(4);

Regulations;

"licensing or regulatory body" ("*corff trwyddedu neu reoleiddio*") means a body that licenses or regulates any profession to which the ophthalmic medical practitioner or optician belongs, or has formerly belonged, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

"list" ("*rhestr*"), unless the context otherwise requires, means-

- (a) a list referred to in section 49N(1)(a) to (c) ;
- (b) a list of persons undertaking to provide general medical services prepared in accordance with regulations under section 29, as the list existed on or before 31 March 2004;
- (c) a list of persons approved by a Local Health Board for the purpose of assisting in the provision of general medical services prepared in accordance with regulations under section 43D(1) as the list existed on or before 31 March 2004; or
- (d) a services list referred to in section 8ZA(1)(a) of the Primary Care Act as the list existed on or before 31 March 2004;

"a national disqualification" ("*anghymwysiad cenedlaethol*") means a decision-

- (a) made by the FHSAA to nationally disqualify a ophthalmic medical practitioner or optician under section 49N;
- (b) to nationally disqualify an ophthalmic medical practitioner or optician under provisions in force in Scotland or Northern Ireland corresponding to section 49N; or
- (c) 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, or regulation 6(4) of the Abolition of the Tribunal (Wales) Regulations;

"the NCAA" means the National Clinical Assessment Authority;

"the NHS Counter Fraud and Security Management Service" ("*Gwasanaeth Gwrth Dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol*") means the body with responsibility for the policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National

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(1) 1997 p.46.

(2) O.S.2001/3744.

(3) O.S.2002/1920.

(4) 1989 p.44.



ystyr "FHSAA" ("*FHSAA*") yw'r Awdurdod Apeliadau Gwasanaeth Iechyd Teuluol sydd wedi ei gynnwys o dan adran 49S;

ystyr "y gofrestr" ("*the register*"), ac eithrio lle mae'r cyd-destun ym mynnu fel arall, yw mewn perthynas ag ymarferydd meddygol offthalmig, cofrestr a gedwir gan y Cyngor Meddygol Cyffredinol, neu mewn perthynas ag optegydd, cofrestr a gedwir gan y Cyngor Optegol Cyffredinol;

ystyr "Gwasanaeth Gwrth-Dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol" ("*the NHS Counter Fraud and Security Management Service*") yw'r corff sy'n gyfrifol am faterion polisi a gweithredol mewn perthynas ag atal, canfod ac archwilio twyll neu lygredd a rheoli diogelwch yn y Gwasanaeth Iechyd Gwladol, a sefydlwyd gan y Gorchymyn Cyfansoddiad a Sefydlu Gwasanaeth Gwrth-Dwyll a Rheoli Diogelwch 2002(1);

ystyr "gwasanaethau offthalmig cyffredinol" ("*general ophthalmic services*") yw'r gwasanaethau y mae person sydd â'i enw wedi ei gynnwys ar restr offthalmig wedi ymgymeryd i'w darparu, yn unol â pharagraff 10 o Atodlen 1 i'r Rheoliadau Offthalmig;

ystyr "hysbysiad" ("*notice*") yw hysbysiad mewn ysgrifen (gan gynnwys electronig) a bydd "hysbysu" yn cael ei ddeall yn unol â hynny;

ystyr "NCAA" ("*the NCAA*") yw'r Awdurdod Asesu Clinigol Cenedlaethol;

ystyr "NPSA" ("*the NPSA*") yw Asiantaeth Genedlaethol Diogelwch Cleifion a sefydlwyd fel Awdurdod Iechyd Arbennig o dan adran 11;

ystyr "optegydd" ("*optician*") yw person naturiol, sy'n optegydd offthalmig;

ystyr "Rheoliadau Offthalmig" ("*Ophthalmic Regulations*") yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Offthalmig Cyffredinol 1986(2));

ystyr "rhestr" ("*list*"), oni bai bod y cyd-destun yn mynnu'n wahanol, yw-

Health Service, established by the Counter Fraud and Security Management Service Establishment and Constitution Order 2002(1);

"notice" ("*hysbysiad*") means an notice in writing (including electronic) and "notify" shall be construed accordingly;

"the NPSA" means the National Patient Safety Agency established as a Special Health Authority under section 11;

"ophthalmic list" ("*rhestr offthalmig*") means the list prepared by a Local Health Board under regulation 6(2) of the Ophthalmic Regulations;

"ophthalmic medical practitioner" ("*ymarferydd meddygol offthalmig*") means a registered medical practitioner, whose qualifications have, in accordance with regulations 3, 4 or 5 of the Ophthalmic Regulations, been approved as prescribed qualifications;

"Ophthalmic Regulations" ("*Rheoliadau Offthalmig*") means the National Health Service (General Ophthalmic Services) Regulations 1986(3);

"optician" ("*optegydd*") means an natural person, who is an ophthalmic optician;

"Opticians Act" ("*y Ddeddf Optegwyr*") means the Opticians Act 1989(4);

"originating events" ("*digwyddiadau sy'n cychwynnol*") means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;

"practitioner" ("*ymarferydd*"), except where the context otherwise requires, means an ophthalmic medical practitioner or an optician;

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

"Primary Care Act" ("*Ddeddf Gofal Sylfaenol*") means the National Health Service (Primary Care)

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(1) O.S.2002/3039. Mae Gwasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol yn disodli Gwasanaeth Gwrth-dwyll y Gwasanaeth Iechyd Gwladol.

(2) O.S.1986/975.

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(1) S.I.2002/3039. The NHS Counter Fraud and Security Management Service replaces the National Health Service Counter Fraud Service.

(2) Regulation 6 was amended by S.I.2001/1423 (W.98) and S.I.2002/1883 (W.192)

(3) S.I.1986/975

(4) 1989 c.44

(5) 1997 c.46

- (a) rhestr y cyfeirir ati yn adran 49N(1)(a) i (c);
- (b) rhestr o bersonau sydd wedi ymgymeryd i ddarparu gwasanaethau meddygol cyffredinol a baratowyd yn unol â rheoliadau o dan adran 29, fel ag yr oedd y rhestr honno ar neu cyn 31 Mawrth 2004;
- (c) rhestr o bersonau sydd wedi eu cymeradwyo gan Fwrdd Iechyd Lleol at bwrras helpu i ddarparu gwasanaethau meddygol cyffredinol a baratowyd yn unol â rheoliadau o dan adran 43D(1) fel ag yr oedd y rhestr honno ar neu cyn 31 Mawrth 2004; neu
- (ch) rhestr wasanaethau y cyfeirir ati yn adran 8ZA(1)(a) o Ddeddf Gofal Sylfaenol fel ag yr oedd y rhestr honno ar neu cyn 31 Mawrth 2004;

ystyr "rhestr gyfatebol" ("*equivalent list*") yw rhestr a gedwir gan gorff cyfatebol;

ystyr "rhestr offthalmig" ("*ophthalmic list*") yw'r rhestr a baratowyd gan Fwrdd Iechyd Lleol o dan reoliad 6(1) y Rheoliadau Offthalmig;

ystyr "rhif cofrestru proffesiynol" ("*professional registration number*") yw'r rhif wrth ymyl enw'r ymarferydd meddygol offthalmig neu'r optegydd ar y gofrestr;

ystyr "y Tribiwnlys" ("*the Tribunal*") yw'r Tribiwnlys sydd wedi ei gynnwys o dan adran 46(2) ar gyfer Cymru a Lloegr, ac a oedd, ar wahân i achosion rhagnodedig, yn effeithiol o ran Cymru tan 26 Awst 2002 ac o ran Lloegr tan 14 Rhagfyr 2001(3);

ystyr "ymarferydd" ("*practitioner*"), ac eithrio lle mae'r cyd-destun yn mynnu fel arall, yw ymarferydd meddygol offthalmig neu optegydd;

ystyr "ymarferydd meddygol offthalmig" ("*ophthalmic medical practitioner*") yw ymarferydd meddygol cofrestredig, sydd â'i gymwysterau wedi cael eu cymeradwyo fel cymwysterau rhagnodedig, yn unol â rheoliadau 3, 4 neu 5 o'r Rheoliadau Offthalmig; ac

mae "ymddygiad proffesiynol" ("*professional conduct*") yn cynnwys materion sy'n ymwneud ag ymddygiad proffesiynol yn ogystal â pherfformiad proffesiynol.

(2) Mae pob cyfeiriad at adrannau yn y Rhan hon yn gyfeiriad at adrannau o Ddeddf Gwasanaeth Iechyd Gwladol 1977, ac eithrio lle a bennir yn wahanol.

Act 1997(5);

"professional registration number" ("*rhif cofrestru proffesiynol*") means the number against the ophthalmic medical practitioner or optician's name in the register;

"the register" ("*gofrestr*"), except where the context otherwise requires, means in relation to an ophthalmic medical practitioner, a register maintained by the General Medical Council or, in relation to an optician, a register maintained by the General Optical Council;

"suspended" ("*atal dros dro*") means-

- (a) suspended by a Local Health Board or equivalent body under section 49I or 49J, or regulations made under section 28DA or 43D or under section 8ZA of the Primary Care Act(1);
- (b) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in or made under sections 28DA, 43D, 49I, 49J or under section 8ZA of the Primary Care Act,

and shall be treated as including a case where a person is treated as suspended by a Local Health Board, or prior to 1 April 2003, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal (Wales) Regulations, or in England, by a Primary Care Trust, or prior to 1 October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, and "suspends" and "suspension" should be construed accordingly; and

"the Tribunal" ("*y Tribiwnlys*") means the Tribunal constituted under section 46(2) for England and Wales, and which, except for prescribed cases, had effect in relation to Wales until 26 August 2002 and in relation to England until 14 December 2001(3).

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

(1) Diwygiwyd rheoliad 6 gan O.S.2001/1423 (Cy.98) ac O.S.2002/1883 (Cy.192).

(2) Diddymwyd adran 46 gan Ddeddf 2001, adran 67 ac Atodlen 5, paragraff 5, ac Atodlen 6, Rhan 1.

(3) Gweler O.S.2001/3738, erthygl 2(5) a (6)(b), sy'n nodi'r achosion a ragnodwyd ar gyfer Lloegr ac O.S.2002/1919, erthygl 2(2) a (3)(b), sy'n nodi'r achosion a ragnodwyd ar gyfer Cymru.

(1) Section 8ZA was inserted by the 2001 Act, section 26(2) and amended by the 2002 Act, Schedule 3, paragraph 3.

(2) Section 46 was revoked by the 2001 Act, section 67 and Schedule 5, paragraph 5, and Schedule 6, Part 1.

(3) See S.I.2001/3738, article 2(5) and (6)(b), which sets out the prescribed cases for England and S.I.2002/1919, article 2(2) and (3)(b), which sets out the prescribed cases for Wales.

## Rhestr Atodol

3.-(1) Mae'n rhaid i Fwrdd Iechyd Lleol baratoi a chyhoeddi rhestr atodol o'r holl ymarferwyr sydd wedi cael eu cymeradwyo gan y Bwrdd Iechyd Lleol er mwyn helpu i ddarparu gwasanaethau offthalmig cyffredinol.

(2) Mae'n rhaid i'r rhestr atodol gael ei rhannu'n ddwy ran, bydd y rhan gyntaf yn ymwneud ag ymarferwyr meddygol offthalmig a'r ail ran yn ymwneud ag optegwyr.

(3) Yn ddarostyngedig i reoliad 21, nid yw ymarferydd yn gymwys i helpu i ddarparu gwasanaethau offthalmig cyffredinol, oni bai bod ei enw wedi ei gynnwys ar restr offthalmig neu restr atodol.

(4) Mewn perthynas ag unrhyw ymarferydd, sydd â'i enw wedi ei gynnwys ar y rhestr atodol, bydd y rhestr yn cynnwys y manylion canlynol am yr ymarferydd hwnnw-

- (a) enw llawn;
- (b) rhif cofrestru proffesiynol, ac
  - (i) ar ffurf ôl-ddodiad i'r rhif hwnnw, y cod trefniadaethol a roddwyd gan Gynulliad Cenedlaethol Cymru i'r Bwrdd Iechyd Lleol, a
  - (ii) ar ffurf rhagddodiad i'r rhif hwnnw, y blaenlythrennau SOL;
- (c) dyddiad geni, pan fo'r ymarferydd wedi rhoi caniatâd, neu os nad yw wedi rhoi caniatâd, dyddiad cofrestriad cyntaf yr ymarferydd ar y gofrestr; ac
- (ch) dyddiad pan gafodd ei enw ei gynnwys gyntaf ar y rhestr atodol.

(5) Mae'n rhaid i'r rhestr atodol fod ar gael i'r cyhoedd i'w archwilio.

## Cais am gynnwys enw ymarferydd ar y rhestr atodol

4.-(1) Yn ddarostyngedig i baragraffau (7) i (11), rhaid i ymarferydd wneud cais i'w enw gael ei gynnwys ar y rhestr atodol drwy anfon cais ysgrifenedig at y Bwrdd Iechyd Lleol, a rhaid i'r cais gynnwys yr wybodaeth a grybwyllwyd ym mharagraff (2), yr ymrwymadau a'r caniatadau sy'n ofynnol ym mharagraffau (3) a (6) ac unrhyw ddatganiad sy'n ofynnol o dan baragraffau (4) a (5).

(2) Mae'n rhaid i'r ymarferydd ddarparu'r wybodaeth ganlynol-

- (a) enw llawn;
- (b) rhyw;
- (c) dyddiad geni;
- (ch) cyfeiriad preifat a rhif ffôn;
- (d) manylion cymwysterau a lle yr enillwyd hwy;

## Supplementary List

3.-(1) A Local Health Board must prepare and publish a supplementary list of all practitioners approved by the Local Health Board for the purposes of assisting in the provision of general ophthalmic services.

(2) The supplementary list must be divided into two parts, of which the first part will relate to ophthalmic medical practitioners and the second part to opticians.

(3) Subject to regulation 21, a practitioner is not eligible to assist in the provision of general ophthalmic services, unless his or her name is included in an ophthalmic list or a supplementary list.

(4) In respect of any practitioner, whose name is included in the supplementary list, the list will include that practitioner's-

- (a) full name;
- (b) professional registration number, and
  - (i) suffixed to that number, the organisational code given by the National Assembly for Wales to the Local Health Board, and
  - (ii) prefixed to that number, the initials SOL;
- (c) date of birth, where the practitioner has given consent, or if consent is not given, the date of the practitioner's first registration in the register; and
- (d) date when his or her name was first included in the supplementary list.

(5) The supplementary list must be available for public inspection.

## Application for inclusion in the supplementary list

4.-(1) Subject to paragraphs (7) to (11), an application by a practitioner for the inclusion of his or her name in the supplementary list must be made by sending to the Local Health Board an application in writing, which must include the information mentioned in paragraph (2), the undertakings and consents required by paragraphs (3) and (6) and any declaration required under paragraphs (4) and (5).

(2) The practitioner must provide the following information-

- (a) full name;
- (b) sex;
- (c) date of birth;
- (d) private address and telephone number;
- (e) details of qualifications and where they were obtained;

- (dd) datganiad ei fod yn ymarferydd meddygol offthalmig neu optegydd sydd wedi ei gofrestru'n llawn, ac wedi ei gynnwys ar y rhestr;
  - (e) rhif cofrestru proffesiynol a dyddiad y cofrestrriad cyntaf ar y gofrestr;
  - (f) manylion cronolegol o brofiad proffesiynol (gan gynnwys dyddiadau dechrau a gorffen pob penodiad ynghyd ag eglurhad am unrhyw fylchau rhwng penodiadau), gydag unrhyw fanylion ychwanegol sy'n cefnogi, ac eglurhad ynglyn â pham y cafodd ei ddiswyddo o unrhyw swydd;
  - (ff) enwau a chyfeiriadau dau ganolwr, sy'n barod i ddarparu geirda mewn perthynas â dwy swydd ddiweddar (a all gynnwys unrhyw swydd bresennol) fel ymarferydd meddygol offthalmig neu optegydd, a barodd am o leiaf dri mis heb unrhyw fwlch sylweddol, a lle nad yw hyn yn bosibl, eglurhad llawn ac enwau a chyfeiriadau canolwyr eraill;
  - (g) a oes gan yr ymarferydd unrhyw gais sy'n aros, gan gynnwys cais wedi ei ohirio, i gael ei gynnwys ar restr neu restr gyfatebol, ac os felly, manylion am y cais hwnnw;
  - (ng) manylion am unrhyw Fwrdd Iechyd Lleol neu restr gyfatebol y mae'r ymarferydd wedi cael ei dynnu oddi arni neu ei dynnu oddi arni'n amodol, neu y mae'r ymarferydd wedi cael gwrthod mynediad iddi neu y mae wedi cael ei gynnwys yn amodol, gydag eglurhad o'r rhesymau;
  - (h) os mai'r ymarferydd yw cyfarwyddwr unrhyw gorff corfforaethol sydd wedi ei gynnwys ar unrhyw restr neu restr gyfatebol, neu sydd â chais sy'n aros (gan gynnwys cais wedi ei ohirio) i gael ei gynnwys ar restr o'r fath, enw a chyfeiriad swyddfa gofrestredig y corff hwnnw a manylion y Bwrdd Iechyd Lleol neu gorff cyfatebol sy'n gysylltiedig; ac
  - (i) pan fo'r ymarferydd yn gyfarwyddwr corff corfforaethol, neu lle'r oedd yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, manylion am unrhyw restr neu restr gyfatebol y gwrthodwyd i'r corff hwnnw gael bod arni, neu y cafodd ei gynnwys arni'n amodol, neu y cafodd ei dynnu oddi arni neu ei dynnu oddi arni'n amodol neu restr y mae wedi ei atal oddi arni dros dro ar hyn o bryd, gydag eglurhad o'r rhesymau a manylion am y Bwrdd Iechyd Lleol neu gorff cyfatebol sy'n gysylltiedig.
- (3) Mae'n rhaid i'r ymarferydd ddarparu'r ymrwymadau a'r caniatâd canlynol-
- (a) ymrwymiad i ddarparu'r datganiadau a'r ddogfen, lle bo'n gymwys, sy'n ofynnol gan reoliad 9;
  - (b) ymrwymiad i beidio â helpu i ddarparu
- (f) a declaration that he or she is a fully registered ophthalmic medical practitioner or optician, included in the register;
  - (g) professional registration number and the date of first registration in the register;
  - (h) 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 he or she was dismissed from any post;
  - (i) names and addresses of two referees, who are willing to provide references in respect of two recent posts (which may include any current post) as an ophthalmic medical practitioner or optician, which lasted for 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;
  - (j) whether the practitioner 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;
  - (k) details of any Local Health Board or equivalent list from which the practitioner has been removed or contingently removed, or to which the practitioner has been refused admission or in which he or she has been conditionally included, with an explanation as to why;
  - (l) if the practitioner is the director of any body corporate that is included in any list or equivalent list, or which has an outstanding application (including a deferred application) for inclusion in such a list, the name and the address of the registered office of that body and details of the Local Health Board or equivalent body concerned; and
  - (m) where the practitioner 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, 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 practitioner must provide the following undertakings and consent-
- (a) an undertaking to provide the declarations and document, if applicable, required by regulation 9;
  - (b) an undertaking not to assist in the provision of

gwasanaethau offthalmig cyffredinol yn ardal Bwrdd Iechyd Lleol arall neu gorff cyfatebol lle mae wedi cael ei dynnu oddi ar ei restr offthalmig neu restr atodol, ac eithrio lle tynnwyd ei enw oddi arni ar gais yr ymarferydd ei hun neu'n unol â rheoliad 10(7) neu 21(12) o'r Rheoliadau hyn, neu reoliad 9(2) o'r Rheoliadau Offthalmig, heb ganiatâd ysgrifenedig y Bwrdd Iechyd Lleol hwnnw neu gorff cyfatebol;

- (c) ymrwymiad i hysbysu'r Bwrdd Iechyd Lleol o fewn 7 diwrnod am unrhyw newidiadau materol i'r wybodaeth a ddarparwyd yn y cais hyd nes bydd y cais wedi cael ei benderfynu'n derfynol;
- (ch) ymrwymiad i hysbysu'r Bwrdd Iechyd Lleol os yw'r ymarferydd wedi ei gynnwys, neu wedi gwneud cais i gael ei gynnwys ar unrhyw restr arall neu ar restr gyfatebol a gedwir gan Fwrdd Iechyd Lleol neu gorff cyfatebol; a
- (d) chaniatâd i ddatgelu gwybodaeth yn unol â rheoliadau 16 a 20 o'r Rheoliadau hyn.

(4) Rhaid i'r ymarferydd anfon datganiad gyda'r cais yn datgan a yw-

- (a) wedi cael unrhyw gollfarn droseddol yn y Deyrnas Unedig;
- (b) wedi ei rwymo yn dilyn collfarn droseddol yn y Deyrnas Unedig;
- (c) wedi derbyn rhybuddiad gan yr heddlu yn y Deyrnas Unedig;
- (ch) wedi derbyn cynnig amodol o dan adran 302 o Ddeddf Gweithdrefn Droseddol (yr Alban) 1995(1) (cosb benodedig: cynnig amodol gan brocuradur cyllidol) neu wedi cytuno i dalu cosb o dan adran 115A o Ddeddf Gweinyddu Nawdd Cymdeithasol 1992(2) (cosb fel dewis arall yn lle erlyniad);
- (d) mewn achos yn yr Alban am drosedd, wedi bod yn destun gorchymyn o dan adran 246(2) neu (3) o Ddeddf Gweithdrefn Droseddol (yr Alban) 1995 yn ei ryddhau yn llwyr;
- (dd) wedi cael ei gollfarnu yn rhywle arall am drosedd, neu'r hyn a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (e) ar hyn o bryd yn destun unrhyw achos a all arwain at gollfarn o'r fath, sydd ddim wedi cael ei hysbysu hyd yma i'r Bwrdd Iechyd Lleol;

general ophthalmic services in the area of another Local Health Board or equivalent body from whose ophthalmic or supplementary list he or she has been removed, except where that removal was at his or her request or in accordance with regulation 10(7) or 21(12) of these Regulations, or regulation 9(2) of the Ophthalmic Regulations, without the consent, in writing, of that Local Health Board or equivalent body;

- (c) an 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;
- (d) an undertaking to notify the Local Health Board if he or she is included, or applies to be included, in any other list or equivalent list held by a Local Health Board or equivalent body; and
- (e) consent to the disclosure of information in accordance with regulation 16 and 20 of these Regulations.

(4) The practitioner must send with the application a declaration as to whether he or she-

- (a) has any criminal conviction in the United Kingdom;
- (b) has been bound over following a criminal conviction in the United Kingdom;
- (c) has accepted a police caution in the United Kingdom;
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995(1) (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(2) (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (f) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (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;

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(1) 1995 p.46.

(2) 1992 p.5.

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(1) 1995 c.46

(2) 1992 c.5

- (f) wedi bod yn ddarostyngedig i unrhyw ymchwiliad i'w ymddygiad proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall, lle bu'r canlyniad yn anffafriol;
- (ff) y mae ar hyn o bryd yn ddarostyngedig i unrhyw ymchwiliad i'w ymddygiad proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall;
- (g) yn ôl yr wybodaeth sydd gan yr ymarferydd, neu lle bu'r canlyniad yn anffafriol, y mae'n destun unrhyw ymchwiliad gan Wasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol mewn perthynas â thwyll;
- (ng) yn destun unrhyw ymchwiliad gan Fwrdd Iechyd Lleol arall neu gorff cyfatebol, a all arwain at dynnu'r ymarferydd oddi ar unrhyw restr neu restr gyfatebol;
- (h) yn destun unrhyw ymchwiliad i'w ymddygiad proffesiynol mewn perthynas ag unrhyw gyflogaeth bresennol neu flaenorol, neu lle bu'r canlyniad yn anffafriol;
- (i) wedi cael ei dynnu, neu ei dynnu'n amodol, wedi cael gwrthod mynediad, neu wedi ei gynnwys yn amodol ar unrhyw restr neu restr gyfatebol a gedwir gan Fwrdd Iechyd Lleol arall neu gorff cyfatebol, neu wedi ei atal dros dro ar hyn o bryd o restr o'r fath, ac os felly, y rhesymau pam ac enw'r Bwrdd Iechyd Lleol hwnnw neu gorff cyfatebol; neu
- (l) yn destun anghymhwysiad cenedlaethol ar hyn o bryd neu yn flaenorol,

ac, os felly, mae'n rhaid i'r ymarferydd roi manylion am y man lle mae unrhyw ymchwiliad neu achos wedi cael ei gynnal neu lle mae i'w gynnal, gan gynnwys dyddiadau bras yr ymchwiliad neu'r achos hwnnw, natur yr ymchwiliad neu'r achos, ac unrhyw ganlyniad.

(5) Os yw'r ymarferydd yn gyfarwyddwr corff corfforaethol, wedi bod yn gyfarwyddwr yn y chwe mis blaenorol, neu yn ystod y digwyddiadau cychwynnol, mae'n rhaid iddo hefyd wneud datganiad i'r Bwrdd Iechyd Lleol yn datgan a oes gan y corff corfforaethol-

- (a) unrhyw gollfarnau troseddol yn y Deyrnas Unedig;
- (b) a yw wedi cael ei gollfarnu yn rhywle arall am unrhyw drosedd, neu'r hyn a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (c) a yw ar hyn o bryd yn destun unrhyw achos a all arwain at gollfarn o'r fath, sydd heb ei hysbysu hyd yma i'r Bwrdd Iechyd Lleol
- (ch) a yw wedi bod yn ddarostyngedig i unrhyw ymchwiliad ynglyn â'i ddarpariaeth o wasanaethau proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall, lle bu'r canlyniad yn anffafriol;

- (h) has been subject to any investigation into his or her professional conduct by any licensing, regulatory or other body, where the outcome was adverse;
- (i) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body;
- (j) is to his or her 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 his or her removal from any list or equivalent list;
- (l) is, or has been where the outcome was adverse, the subject of any investigation into his or her professional conduct in respect of any current or previous employment;
- (m) has been removed or contingently removed from, refused admission to, or conditionally included in any list or equivalent list kept by another 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 practitioner must give 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.

(5) If the practitioner is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate, he or she must 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;
- (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;

- (d) yn ddarostyngedig ar hyn o bryd i unrhyw ymchwiliad i'w ddarpariaeth o wasanaethau proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall;
- (dd)a yw yn ôl yr wybodaeth sydd gan yr ymarferydd, yn destun neu wedi bod yn destun unrhyw ymchwiliad gan Wasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol mewn perthynas â thwyll, lle bu'r canlyniad yn anffafriol;
- (e) a yw'n destun unrhyw ymchwiliad gan Fwrdd Iechyd Lleol arall neu gorff cyfatebol, a all arwain at ei dynnu oddi ar unrhyw restr neu restr gyfatebol; neu
- (f) a yw wedi'i dynnu neu wedi'i dynnu'n amodol oddi ar unrhyw restr neu restr gyfatebol, neu a wrthodwyd ei gynnwys neu a yw wedi'i gynnwys yn amodol ar unrhyw restr o'r fath neu a yw wedi'i atal dros dro rhag cael ei gynnwys ar restr o'r fath,

ac, os felly, mae'n rhaid i'r ymarferydd roi enw a chyfeiriad swyddfa gofrestredig y corff corfforaethol a manylion, gan gynnwys bras ddyddiadau, ynglyn â'r adeg y bydd unrhyw ymchwiliad neu achos yn cael ei gynnal neu wedi eu gynnal, natur yr ymchwiliad neu'r achos hwnnw, ac unrhyw ganlyniad.

(6) Mae'n rhaid i'r ymarferydd gytuno i gais a wneir gan y Bwrdd Iechyd Lleol i unrhyw gyflogwr neu gyn-gyflogwr, corff trwyddedu, rheoleiddio neu gorff arall yn y Deyrnas Unedig neu rywle arall, am wybodaeth sy'n ymwneud ag ymchwiliad cyfredol, neu ymchwiliad lle'r oedd y canlyniad yn anffafriol, i'r ymarferydd neu gorff corfforaethol y cyfeiriwyd ato ym mharagraffau (2) a (5) ac, at ddibenion y paragraff hwn, mae "cyflogwr" yn cynnwys unrhyw bartneriaeth y mae'r ymarferydd meddygol offthalmig neu optegydd yn aelod ohono, neu wedi bod yn aelod ohono;

(7) Os, yn achos unrhyw gais, y bydd y Bwrdd Iechyd Lleol yn canfod nad yw'r wybodaeth, y geiradaon neu'r ddogfennaeth a gyflenwyd gan yr ymarferydd yn ddigonol iddynt benderfynu cais yr ymarferydd, mae'n rhaid i'r Bwrdd geisio cael unrhyw wybodaeth, unrhyw eirada neu unrhyw ddogfennaeth ychwanegol, y bydd yn gofyn yn rhesymol amdanynt er mwyn gwneud penderfyniad, oddi wrth yr ymarferydd ac mae'n rhaid i'r ymarferydd gyflenwi'r deunydd y gofynnir amdano i'r Bwrdd Iechyd Lleol.

(8) Yn achos cais i Fwrdd Iechyd Lleol gan ymarferydd, sydd wedi ei gynnwys ar restr offthalmig y Bwrdd, yn ceisio tynnu yn ôl o'r rhestr honno ac i gael cynnwys ei enw ar restr atodol y Bwrdd, ni fydd yn rhaid i'r ymarferydd ddarparu dim ar wahân i'r wybodaeth sy'n ofynnol ym mharagraffau (2), (4) a (5) i'r graddau-

- (a) nad yw'r wybodaeth eisoes wedi cael ei chyflenwi i'r Bwrdd Iechyd Lleol hwnnw; neu

- (e) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body;
- (f) is to the practitioner'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 list or equivalent list; or
- (h) has been removed or contingently removed from, refused admission to, or conditionally included in any list or equivalent list or is currently suspended from such a list,

and, if so, the practitioner must give the name and the address of the registered office of the body corporate and details, including approximate dates, or when any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.

(6) The practitioner must consent to a request being 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 practitioner or a body corporate referred to in paragraphs (2) and (5) and, for the purposes of this paragraph, "employer" includes any partnership of which the ophthalmic medical practitioner or optician 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 practitioner are not sufficient for it to decide the practitioner's application, it must seek from the practitioner such further information, references or documentation as it may reasonably require in order to make a decision and the practitioner must supply the material so sought to the Local Health Board.

(8) In the case of an application to a Local Health Board by a practitioner, who is included in its ophthalmic list, seeking to withdraw from that list and to include his or her name in its supplementary list, the practitioner will only be required to provide the information required by paragraphs (2), (4) and (5) insofar as-

- (a) it has not already been supplied to that Local Health Board; or

(b) wedi newid ers ei darparu.

(9) Caiff unrhyw berson, nad yw'n optegydd, ond sy'n disgwyl bod yn optegydd ar ôl cwblhau ei hyfforddiant yn llwyddiannus, wneud cais i Fwrdd Iechyd Lleol ddim llai na 3 mis cyn y bydd yn disgwyl cael ei roi ar y gofrestr.

(10) Rhaid i gais o dan baragraff (9) gynnwys-

- (a) yr holl wybodaeth sydd wedi ei chrybwyll ym mharagraff (2), ac eithrio'r hyn sy'n ofynnol gan is-baragraffau (dd) ac (e);
- (b) yr ymrwymadau a'r caniatadau sy'n ofynnol yn ôl paragraffau (3) a (6);
- (c) unrhyw ddatganiad sy'n ofynnol o dan baragraff (4) neu (5), ac

wrth gymhwyso'r Rheoliadau hyn i unrhyw gais o'r fath, rhaid i unrhyw gyfeiriad at optegydd gael ei ystyried fel cyfeiriad at ymgeisydd o dan baragraff (9).

(11) Mae'n rhaid i ymgeisydd o dan baragraff (9) ddarparu'r wybodaeth sy'n ofynnol o dan baragraff (2)(dd) ac (e) cyn gynted ag y bydd wedi cael ei hysbysu gan y Cyngor Optegol Cyffredinol a yw wedi cael ei dderbyn i'r gofrestr ac yna bydd y Bwrdd Iechyd Lleol, ar yr amod-

- (a) y cydymffurfir â gofynion paragraffau (9) a (10);
- (b) nad yw'r Bwrdd wedi gofyn am wybodaeth bellach, geiradaon neu ddogfennaeth o dan baragraff (7); ac
- (c) nad yw wedi gohirio'r cais o dan reoliad 7,

yn penderfynu'r cais o fewn 7 diwrnod ar ôl derbyn yr wybodaeth sy'n ofynnol o dan baragraff (2)(dd) ac (e).

### Aildderbyn

5.-(1) Pan fo ymarferydd wedi cael ei dynnu oddi ar restr atodol Bwrdd Iechyd Lleol gan y Bwrdd Iechyd Lleol ar y sail ei fod wedi cael ei gollfarnu am dramgwydd troseddol, a bod y gollfarn wedi ei gwrthdroi ar apêl, caiff y Bwrdd gytuno i gynnwys yr ymarferydd hwnnw ar ei restr atodol heb gais llawn os yw'n-

- (a) fodlon nad oes materion eraill sydd angen eu hystyried; a'i fod
- (b) wedi derbyn ymrwymiad gan yr ymarferydd i gydymffurfio â gofynion y Rheoliadau hyn.

(2) Mewn achos lle mae paragraff (1) yn gymwys, os bydd y gollfarn yn cael ei hadfer mewn apêl diweddarach, bydd penderfyniad blaenorol y Bwrdd Iechyd Lleol i dynnu'r ymarferydd hwnnw oddi ar ei restr atodol yn effeithiol unwaith eto.

(b) it has changed since it was provided.

(9) Any person, who is not an optician, but expects to become so on successful completion of his or her training, may make an application to a Local Health Board not less than 3 months before he or she anticipates being entered on the register.

(10) An application under paragraph (9) must contain-

- (a) all information mentioned in paragraph (2), except that required by sub-paragraphs (f) and (g);
- (b) the undertakings and consents required by paragraphs (3) and (6);
- (c) any declaration required under paragraph (4) or (5), and

in the application of these Regulations to any such application, any reference to an optician is to be taken as being a reference to an applicant under paragraph (9).

(11) An applicant under paragraph (9) must provide the information required by paragraph (2)(f) and (g) as soon as he or she has been notified by the General Optical Council whether he or she has been admitted to the register and the Local Health Board will then, provided-

- (a) the requirements of paragraphs (9) and (10) have been complied with;
- (b) it has not sought further information, references or documentation under paragraph (7); and
- (c) it has not deferred the application under regulation 7,

decide the application within 7 days of receiving the information required under paragraph (2)(f) and (g).

### Readmission

5.-(1) Where a practitioner has been removed from its supplementary list by a Local Health Board on the grounds that he or she had been convicted of a criminal offence, and that conviction is overturned on appeal, it may agree to include that practitioner in its supplementary list without a full application if it-

- (a) is satisfied that there are no other matters that need to be considered; and
- (b) has received an undertaking from the practitioner to comply with the requirements of these Regulations.

(2) In a case to which paragraph (1) applies, if the conviction is reinstated on a further appeal, the previous determination of the Local Health Board to remove that practitioner from its supplementary list will once again have effect.



## Penderfyniadau a sail dros apelio

6.-(1) Caiff Bwrdd Iechyd Lleol wrthod cynnwys ymarferydd ar ei restr atodol ar y seiliau canlynol-

- (a) os yw ar ôl ystyried y datganiad sy'n ofynnol dan reoliad 4(4) ac, os yn gymwys, rheoliad 4(5), ac unrhyw wybodaeth neu ddogfennau arall yn ei feddiant sy'n ymwneud â'r ymarferydd, yn ystyried nad yw'n addas i gael ei gynnwys ar ei restr atodol;
- (b) os yw ar ôl gwirio'r wybodaeth a ddarparwyd gan yr ymarferydd o dan reoliad 4(2)(d), (dd) ac (e), yn ystyried nad yw'n addas i gael ei gynnwys ar ei restr atodol;
- (c) os nad yw ar ôl cysylltu â'r canolwyr a ddarparwyd gan yr ymarferydd o dan reoliad 4(2)(ff), yn fodlon gyda'r geirdaon;
- (ch) os yw ar ôl gwirio gyda Gwasanaeth Gwrthdwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol am unrhyw ffeithiau y mae'n eu hystyried sy'n berthnasol i ymchwiliadau cyfredol neu yn y gorffennol i dwyll sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd, ac wedi ystyried y rhain ac unrhyw ffeithiau eraill yn ei feddiant mewn perthynas â thwyll sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd, yn ystyried bod y rhain yn cyfiawnhau gwrthod;
- (d) os yw ar ôl gwirio gyda Chynulliad Cenedlaethol Cymru ynglyn ag unrhyw ffeithiau y mae'n eu hystyried yn berthnasol mewn perthynas ag ymchwiliadau cyfredol neu yn y gorffennol neu achosion sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd, ac wedi ystyried y rhain ac unrhyw ffeithiau eraill yn ei feddiant sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd, yn ystyried eu bod yn cyfiawnhau gwrthod; neu
- (dd) bod sail i ystyried y byddai derbyn yr ymarferydd i'w restr atodol yn rhagfarnu effeithlonrwydd y gwasanaeth y byddai'n ymgymeryd ag ef.

(2) Mae'n rhaid i Fwrdd Iechyd Lleol wrthod cynnwys ymarferydd ar ei restr atodol ar y seiliau canlynol-

- (a) nad yw'r ymarferydd wedi darparu tystiolaeth foddhaol ei fod yn bwriadu helpu i ddarparu gwasanaethau offthalmig cyffredinol yn ardal y Bwrdd;
- (b) bod yr ymarferydd wedi ei gynnwys ar restr offthalmig unrhyw Fwrdd Iechyd Lleol, oni bai ei fod wedi rhoi hysbysiad ysgrifenedig i'r Bwrdd Iechyd Lleol hwnnw ei fod yn dymuno tynnu ei enw'n ôl o'r rhestr honno;
- (c) bod yr ymarferydd wedi ei gynnwys ar restr atodol Bwrdd Iechyd Lleol arall, oni bai bod yr ymarferydd wedi rhoi hysbysiad

## Decisions and grounds for appeal

6.-(1) The grounds on which a Local Health Board may refuse to include a practitioner in its supplementary list are that-

- (a) having considered the declaration required by regulation 4(4) and, if applicable, regulation 4(5), and any other information or documents in its possession relating to the practitioner, it considers that he or she is unsuitable to be included in its supplementary list;
- (b) having checked the information provided by the practitioner under regulation 4(2)(e), (f) and (g), it considers that he or she is unsuitable to be included in its supplementary list;
- (c) having contacted the referees provided by the practitioner under regulation 4(2)(i), it is not satisfied with the references;
- (d) having checked with the NHS Counter Fraud and Security Management Service for any facts that it considers relevant to past or current fraud investigations involving or related to the practitioner and, having considered these and any other facts in its possession relating to fraud involving or relating to the practitioner, it considers these justify such a refusal;
- (e) having checked with the National Assembly for Wales for any facts that it considers relevant relating to past or current investigations or proceedings involving or related to the practitioner and, having considered these and any other facts in its possession involving or relating to the practitioner, it considers these justify such a refusal; or
- (f) there are grounds for considering that admitting the practitioner to its supplementary list would be prejudicial to the efficiency of the service which he or she would undertake.

(2) The grounds on which a Local Health Board must refuse to include a practitioner in its supplementary list are that-

- (a) the practitioner has not provided satisfactory evidence that he or she intends to assist in the provision of general ophthalmic services in its area;
- (b) the practitioner is included in the ophthalmic list of any Local Health Board, unless he or she has given notice in writing to that Local Health Board that he or she wishes to withdraw from that list;
- (c) the practitioner is included in the supplementary list of another Local Health Board, unless the practitioner has given notice

ysgrifenedig i'r Bwrdd Iechyd Lleol hwnnw ei fod yn dymuno tynnu yn ôl o'r rhestr honno;

- (ch) nad yw'n fodlon bod gan yr ymarferydd yr wybodaeth angenrheidiol o Saesneg, er budd yr ymarferydd ei hun a buddiannau cleifion yr ymarferydd, i helpu i ddarparu gwasanaethau offthalmig cyffredinol yn ardal y Bwrdd;
- (d) bod yr ymarferydd wedi cael ei gollfarnu am lofruddiaeth yn y Deyrnas Unedig;
- (dd) bod yr ymarferydd wedi cael ei gollfarnu yn y Deyrnas Unedig am dramgwydd troseddol, ar wahân i lofruddiaeth, a gyflawnwyd ar neu ar ôl 1 Chwefror 2006 a'i fod wedi ei ddedfrydu i gyfnod o garchar am dros chwe mis;
- (e) fod yr ymarferydd yn destun anghymhwysiad cenedlaethol;
- (f) nad yw'r ymarferydd wedi diweddarau ei gais yn unol â rheoliad 7(4); neu
- (ff) mewn achos lle mae rheoliad 15(4) yn berthnasol, nad yw'r ymarferydd yn hysbysu'r Bwrdd Iechyd Lleol o dan reoliad 15(5) ei fod yn dymuno cael ei gynnwys ar restr atodol y Bwrdd yn amodol ar yr amodau penodedig.

(3) Cyn dod i benderfyniad ar y cais a gyflwynwyd gan yr ymarferydd, mae'n rhaid i'r Bwrdd Iechyd Lleol-

- (a) wirio, hyd y bo'n rhesymol ymarferol, yr wybodaeth sydd wedi cael ei darparu, yn arbennig yr wybodaeth a ddarparwyd o dan reoliad 4(2), (4) ac, os yn gymwys, rheoliad (5), a sicrhau ei fod yn cael gweld y dogfennau perthnasol;
- (b) gwirio gyda Gwasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol a oes ganddo unrhyw gofnod o dwyll mewn perthynas â'r ymarferydd;
- (c) gwirio gyda Chynulliad Cenedlaethol Cymru a oes unrhyw wybodaeth yn ei feddiant ynglyn ag unrhyw gofnod am ymchwiliadau neu achosion cyfredol neu yn y gorffennol sy'n berthnasol i, neu sy'n gysylltiedig â'r ymarferydd hwnnw; ac
- (d) dilyn i fyny y geirada a ddarparwyd o dan reoliad 4(2)(ff).

(4) Pan fo'r Bwrdd Iechyd Lleol yn ystyried gwrthod o dan baragraff (1) neu (2), mae'n rhaid iddo ystyried yr holl ffeithiau sy'n ymddangos yn berthnasol iddo, ac yn arbennig mae'n rhaid i'r Bwrdd ystyried, mewn perthynas â pharagraff (1)(a), (ch), neu (d)-

- (a) natur unrhyw drosedd, ymchwiliad neu ddiwyddiad;
- (b) faint o amser sydd ers unrhyw drosedd, digwyddiad, collfarn neu ymchwiliad;
- (c) a oes unrhyw droseddau, digwyddiadau neu

in writing to that Local Health Board that he or she wishes to withdraw from that list;

- (d) it is not satisfied that the practitioner has the knowledge of English, which, in the practitioner's own interests or those of the practitioner's patients, is necessary in assisting in the provision of general ophthalmic services in its area;
- (e) the practitioner has been convicted in the United Kingdom of murder;
- (f) the practitioner has been convicted in the United Kingdom of a criminal offence, other than murder, committed on or after 1 February 2006 and has been sentenced to a term of imprisonment of over six months;
- (g) the practitioner is subject to a national disqualification;
- (h) the practitioner has not updated his or her application in accordance with regulation 7(4); or
- (i) in a case to which regulation 15(4) applies, the practitioner does not notify the Local Health Board under regulation 15(5) that he or she wishes to be included in its supplementary list subject to the specified conditions.

(3) Before making a decision on the application submitted by the practitioner, the Local Health Board must-

- (a) check, as far as reasonably practicable, the information that has been provided, in particular that provided under regulation 4(2), (4) and, if applicable, (5), and ensure that it has sight of relevant documents;
- (b) check with the NHS Counter Fraud and Security Management Service whether it has any record of fraud in relation to the practitioner;
- (c) check with the National Assembly for Wales as to any information held by it as to any record about past or current investigations or proceedings involving or related to that practitioner; and
- (d) take up the references were provided under regulation 4(2)(i).

(4) Where the Local Health Board is considering a refusal under paragraph (1) or (2), it must consider all the facts which appear to it to be relevant, and must in particular take into consideration, in relation to paragraph (1)(a), (d), or (e)-

- (a) the nature of any offence, investigation or incident;
- (b) the length of time since any offence, incident, conviction or investigation;
- (c) whether there are other offences, incidents or

ymchwiliadau eraill i'w hystyried;

- (ch) unrhyw gamau gweithredu neu gosb a osodwyd gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall, yr heddlu neu'r llysoedd o ganlyniad i unrhyw drosedd, digwyddiad neu ymchwiliad o'r fath;
- (d) perthnasedd unrhyw drosedd, ymchwiliad neu ddigwyddiad i'r ddarpariaeth gwasanaethau offthalmig cyffredinol gan yr ymarferydd ac unrhyw risg tebygol i'w gleifion neu i gyllid cyhoeddus;
- (dd) a oedd unrhyw drosedd yn drosedd rhywiol at bwrpas Rhan 2 o Ddeddf Troseddau Tramgwyddau Rhywiol 2003(1), neu a fyddai'n drosedd o'r fath pe bai wedi ei chyflawni yng Nghymru ac yn Lloegr;
- (e) a yw'r ymarferydd wedi cael gwrthod mynediad, neu wedi cael ei gynnwys yn amodol ar restr, wedi ei dynnu neu ei dynnu'n amodol oddi ar restr neu wedi ei atal dros dro ar hyn o bryd oddi ar unrhyw restr neu restr gyfatebol, ac os felly, y ffeithiau sy'n ymwneud â'r mater a arweiniodd at weithredu o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol am weithredu felly; ac
- (f) a oedd yr ymarferydd ar yr adeg honno, wedi bod yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn gyfarwyddwr corff corfforaethol, y gwrthodwyd rhoi mynediad iddo, a gafodd ei gynnwys yn amodol, ei dynnu neu ei dynnu'n amodol, oddi ar unrhyw restr neu restr gyfatebol neu a yw wedi ei atal dros dro ar hyn o bryd oddi wrth unrhyw restr o'r fath, ac os felly, beth oedd y ffeithiau ym mhob achos o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol ym mhob achos.

(5) Pan fydd y Bwrdd Iechyd Lleol yn rhoi ystyriaeth i unrhyw un o'r materion a osodwyd ym mharagraff (4), mae'n rhaid iddo ystyried effaith gyffredinol yr holl faterion sy'n cael eu hystyried.

(6) Bydd y Bwrdd Iechyd Lleol yn rhoi hysbysiad ysgrifenedig o'i benderfyniad i gynnwys neu beidio cynnwys yr ymarferydd ar ei restr atodol o fewn 7 diwrnod o'r penderfyniad hwnnw.

(7) Rhaid i unrhyw hysbysiad pan fo'r Bwrdd Iechyd Lleol yn rhoi gwybod ei fod yn gwrthod cais i ymarferydd gael ei gynnwys ar ei restr atodol, gynnwys-

- (a) datganiad o'r rhesymau am ei benderfyniad (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt);
- (b) manylion am unrhyw hawl i apelio sy'n codi o dan reoliad 15; ac
- (c) hysbysiad bod rhaid i unrhyw hawl i apelio gael ei weithredu o fewn 28 diwrnod yn

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 any such offence, incident or investigation;
- (e) the relevance of any offence, investigation or incident to the provision by the practitioner of general ophthalmic services and any likely risk to his or her patients or to public finances;
- (f) whether any offence was a sexual offence for the purposes of Part 2 of the Sexual Offences Act 2003(1), or if it had been committed in England and Wales, would have constituted such an offence;
- (g) whether the practitioner has been refused admission to, or conditionally included in, removed or contingently removed or is currently suspended from, any list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action; and
- (h) whether the practitioner was at the time, has in the preceding six months been, or as at the time of the originating events, a director of a body corporate, which was refused admission to, conditionally included in, removed or contingently removed from, any list or equivalent list or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case.

(5) When the Local Health Board takes into consideration any of the matters set out in paragraph (4), it must consider the overall effect of all the matters being considered.

(6) The Local Health Board will give notice in writing of its decision whether or not to include the practitioner in its supplementary list with 7 days of that decision.

(7) Any notice in which the Local Health Board advises of its refusal of an application for inclusion in its supplementary list, must contain-

- (a) a statement of the reasons for its decision (including any facts relied upon);
- (b) details of any right of appeal arising under regulation 15; and
- (c) notice that any right of appeal must be exercised within the period of 28 days

(1) 2003 p.42.

(1) 2003 c.42

dechrau o'r dyddiad pan roddodd hysbysiad o'i benderfyniad.

beginning with the date on which it gave notice of its decision.

### Gohirio penderfyniad ynglyn â chais

7. -(1) Caiff Bwrdd Iechyd Lleol ohirio penderfyniad am gais ymarferydd i gael ei gynnwys ar ei restr atodol, lle-

- (a) mewn perthynas â'r ymarferydd hwnnw, mae-
  - (i) achos troseddol yn y Deyrnas Unedig, neu
  - (ii) achos yn rhywle arall yn y byd sy'n ymwneud ag ymddygiad, a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi digwydd yn y Deyrnas Unedig,

a fyddai pe byddent yn arwain at gollfarn, neu'r hyn sy'n cyfateb i gollfarn, yn debygol o arwain at dynnu'r ymarferydd hwnnw oddi ar ei restr atodol, pe bai wedi ei gynnwys ar y rhestr;

- (b) mewn perthynas â chorff corfforaethol pan fo'r ymarferydd yn gyfarwyddwr, neu wedi bod yn gyfarwyddwr yn ystod y 6 mis blaenorol, neu adeg y digwyddiadau cychwynnol lle mae-
  - (i) achos troseddol yn y Deyrnas Unedig, neu
  - (ii) achos rhywle arall yn y byd yn ymwneud ag ymddygiad, a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi digwydd yn y Deyrnas Unedig,

a fyddai pe byddent yn arwain at gollfarn, neu'r hyn sy'n cyfateb i gollfarn, yn debygol o arwain at dynnu'r ymarferydd oddi ar ei restr atodol, pe bai wedi ei gynnwys ar y rhestr;

- (c) bod ymchwiliad yn cael ei gynnal yn unrhyw le yn y byd gan gorff trwyddedu neu reoleiddio'r ymarferydd neu unrhyw ymchwiliad arall (gan gynnwys un gan Fwrdd Iechyd Lleol arall neu gorff cyfatebol) sy'n gysylltiedig â'r ymarferydd yn rhinwedd ei swyddogaeth broffesiynol a fyddai, os yn anffafriol, yn debygol o arwain at dynnu'r ymarferydd oddi ar restr atodol y Bwrdd Iechyd Lleol, pe byddai wedi ei gynnwys ar y rhestr honno;
- (ch) bod yr ymarferydd wedi ei atal dros dro o unrhyw restr neu restr gyfatebol;
- (d) bod y corff corfforaethol pan fo'r ymarferydd yn gyfarwyddwr, neu wedi bod yn gyfarwyddwr yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, wedi ei atal dros dro o unrhyw restr neu restr gyfatebol;
- (dd) bod yr FHSAA yn ystyried apêl gan yr ymarferydd yn erbyn penderfyniad Bwrdd Iechyd Lleol i wrthod cynnwys yr ymarferydd ar ei restr atodol, neu i gynnwys yr ymarferydd yn amodol neu ei dynnu'n amodol oddi ar

### Deferment of decision on application

7. -(1) A Local Health Board may defer a decision on the application of a practitioner to be included in its supplementary list, where-

- (a) there are, in respect of that practitioner-
  - (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 that practitioner's removal from its supplementary list, if he or she were to be included in it;

- (b) in respect of a body corporate of which the practitioner 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 the practitioner's removal from its supplementary list, if he or she were to be included in it;

- (c) there is an investigation anywhere in the world by the practitioner's licensing or regulatory body or any other investigation (including one by another Local Health Board or equivalent body) relating to the practitioner in his or her professional capacity that, if adverse, would be likely to lead to the practitioner's removal from the Local Health Board's supplementary list, if he or she were to be included in it;
- (d) the practitioner is suspended from any list or equivalent list;
- (e) a body corporate of which the practitioner 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 the practitioner against a decision of a Local Health Board to refuse to include the practitioner in its supplementary list, or to conditionally include the practitioner in or to

unrhyw restr a gedwir gan Fwrdd Iechyd Lleol lle byddai'r Bwrdd Iechyd Lleol pe bai'r apêl honno'n aflwyddiannus, yn debygol o dynnu'r ymarferydd oddi ar ei restr atodol, pe bai wedi ei gynnwys ar y rhestr yn y lle cyntaf;

- (e) bod yr FHSAA yn ystyried apêl gan gorff corfforaethol pan fo'r ymarferydd yn gyfarwyddwr, wedi bod yn gyfarwyddwr yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn erbyn penderfyniad gan Fwrdd Iechyd Lleol neu gorff cyfatebol i wrthod derbyn y corff corfforaethol i'w restr, neu ei gynnwys yn amodol neu ei dynnu'n amodol oddi ar unrhyw restr a gedwir gan y Bwrdd Iechyd Lleol neu gorff cyfatebol, lle byddai'r Bwrdd Iechyd Lleol pe bai'r apêl honno'n aflwyddiannus, yn debygol o dynnu'r ymarferydd oddi ar ei restr atodol, pe bai wedi ei gynnwys ar y rhestr yn y lle cyntaf;
- (f) bod yr ymarferydd yn cael ei archwilio gan Wasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol mewn perthynas ag unrhyw dwyll, lle byddai'r canlyniad, os yn anffafriol, yn debygol o arwain at dynnu'r ymarferydd oddi ar restr y Bwrdd Iechyd Lleol pe byddai'r ymarferydd wedi ei gynnwys ar y rhestr;
- (ff) bod corff corfforaethol, pan fo'r ymarferydd yn gyfarwyddwr, wedi bod yn gyfarwyddwr ohono yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn cael ei archwilio mewn perthynas ag unrhyw dwyll, lle byddai'r canlyniad, os yn anffafriol, yn debygol o arwain at dynnu'r ymarferydd oddi ar restr atodol y Bwrdd Iechyd Lleol, pe byddai wedi ei gynnwys ar y rhestr; a
- (g) bod yr FHSAA yn ystyried cais gan Fwrdd Iechyd Lleol i anghymhwysu'n genedlaethol yr ymarferydd neu gorff corfforaethol pan fo'r ymarferydd yn gyfarwyddwr, wedi bod yn gyfarwyddwr yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol.

(2) Ni all Bwrdd Iechyd Lleol ddim ond gohirio penderfyniad o dan baragraff (1) hyd nes y bydd canlyniad y digwyddiad perthnasol yn unrhyw un o is-baragraffau (a) i (g) o'r paragraff hwnnw yn wybyddus.

(3) Mae'n rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd ei fod wedi gohirio penderfyniad ynglyn â'r cais a'r rhesymau am hynny.

(4) Unwaith bod canlyniad y digwyddiad perthnasol sydd wedi ei grybwyll ym mharagraff (1) yn wybyddus, mae'n rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd bod rhaid iddo o fewn 28 diwrnod i gael ei hysbysu am y gofyniad (neu gyfnod hirach yn ôl yr hyn a gytunir gan y Bwrdd Iechyd Lleol)-

contingently remove him or her from any list kept by a Local Health Board and if that appeal is unsuccessful the Local Health Board would be likely to remove the practitioner from its supplementary list, if he or she were to be included in it;

- (g) the FHSAA is considering an appeal by a body corporate of which the practitioner is, has in the preceding six months been, or was at the time of the originating events a director, against a decision of a Local Health Board or equivalent body to refuse to admit the body corporate to its list, or to conditionally include it in or to contingently remove it from any list kept by the Local Health Board or equivalent body, and if that appeal is unsuccessful the Local Health Board would be likely to remove the practitioner from its supplementary list, if the practitioner were to be included in it;
- (h) the practitioner 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 the practitioner's removal from the Local Health Board's list if the practitioner were to be included in it;
- (i) a body corporate, of which the practitioner 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 the practitioner's removal from the Local Health Board's supplementary list, if he or she were to be included in it; and
- (j) the FHSAA is considering an application by a Local Health Board for a national disqualification of the practitioner or of a body corporate of which the practitioner is, has in the preceding six months been, or was at the time of the originating events, a director.

(2) A Local Health Board may only defer a decision under paragraph (1) until the outcome of the relevant event in any of the sub-paragraphs (a) to (j) of that paragraph is known.

(3) The Local Health Board must notify the practitioner 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 Local Health Board must notify the practitioner that he or she must within 28 days of the notification of the requirement (or such longer period as the Local Health Board may agree)-

- (a) ddiweddarau ei gais; a
- (b) chadarnhau yn ysgrifenedig ei fod yn dymuno mynd ymlaen gyda'r cais.

(5) Cyn belled â bod unrhyw wybodaeth ychwanegol wedi cael ei derbyn o fewn 28 diwrnod neu o fewn yr amser a gytunwyd, bydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd cyn gynted ag y bo modd-

- (a) bod cais yr ymarferydd i gael ei gynnwys wedi bod yn llwyddiannus; neu
- (b) ei fod wedi penderfynu gwrthod cais yr ymarferydd neu osod amodau ar gynnwys yr ymarferydd ar y rhestr, a'r rhesymau am hyn (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt), ac am unrhyw hawl i apelio o dan reoliad 15.

### Cynnwys yn amodol

8.-(1) Caiff Bwrdd Iechyd Lleol benderfynu os bydd ymarferydd yn cael ei gynnwys ar y rhestr atodol, bod yr ymarferydd, tra bydd ar y rhestr honno, yn ddarostyngedig i amodau, gan roi sylw i ofynion adran 43D(5) (diben amodau).

(2) Os bydd ymarferydd yn methu â chydymffurfio ag amod, sydd wedi cael ei osod gan y Bwrdd Iechyd Lleol, caiff y Bwrdd dynnu'r ymarferydd hwnnw oddi ar ei restr atodol.

(3) Lle bo'r Bwrdd Iechyd Lleol yn ystyried tynnu ymarferydd oddi ar ei restr atodol am dorri amod, mae'n rhaid iddo roi i'r ymarferydd-

- (a) hysbysiad am unrhyw honiad yn ei erbyn;
- (b) hysbysiad am sail y camau gweithredu y mae'n eu hystyried;
- (c) y cyfle i wneud sylwadau ysgrifenedig i'r Bwrdd o fewn 28 diwrnod o ddyddiad yr hysbysiad o dan is-baragraff (b); ac
- (ch) cyfle i gyflwyno ei achos mewn gwrandawriad llafar o flaen y Bwrdd, os yw'r ymarferydd yn gofyn am wrandawriad o fewn y cyfnod 28 diwrnod sydd wedi ei grybwyll yn is-baragraff (c).

(4) Os nad yw'r ymarferydd yn gwneud unrhyw sylwadau o fewn y cyfnod a nodwyd ym mharagraff (3)(c), bydd y Bwrdd Iechyd Lleol yn penderfynu'r mater ac yn rhoi gwybod i'r ymarferydd am-

- (a) ei benderfyniad a'r rhesymau (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt); a
- (b) unrhyw hawl i apelio o dan reoliad 15

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(5) Os bydd yr ymarferydd yn gwneud sylwadau, mae'n rhaid i'r Bwrdd Iechyd Lleol eu hystyried cyn dod i benderfyniad, yna bydd yn hysbysu'r ymarferydd-

- (a) update his or her application; and
- (b) confirm in writing that he or she wishes to proceed with the application.

(5) Provided any additional information has been received within 28 days or the time agreed, the Local Health Board will notify the practitioner as soon as possible-

- (a) that the practitioner's application to be included has been successful; or
- (b) that it has decided to refuse the practitioner's application or to impose conditions on the practitioner's inclusion, and the reasons for it (including any facts relied upon), and of any right of appeal under regulation 15.

### Conditional inclusion

8.-(1) A Local Health Board may determine that if a practitioner is to be included in the supplementary list, the practitioner is to be subject, whilst he or she remains included in that list, to the imposition of conditions, having regard to the requirements of section 43D(5) (purpose of conditions).

(2) If a practitioner fails to comply with a condition, which has been imposed by the Local Health Board, it may remove that practitioner from its supplementary list.

(3) Where the Local Health Board is considering the removal of a practitioner from its supplementary list for breach of a condition, it must give the practitioner-

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

(4) If the practitioner does not make any representations within the period specified in paragraph (3)(c), the Local Health Board will decide the matter and inform the practitioner of -

- (a) its decision and the reasons for it (including any facts relied upon); and
- (b) any right of appeal under regulation 15

within 7 days of making that decision.

(5) If the practitioner does make representations, the Local Health Board must take them into account before reaching its decision, it will then notify the practitioner of-

- (a) o'i benderfyniad a'r rhesymau (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt); a
- (b) unrhyw hawl i apelio o dan reoliad 15

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(6) Os yw'r ymarferydd yn gofyn am wrandawriad llafar, mae'n rhaid ei gynnal cyn i'r Bwrdd Iechyd Lleol ddod i benderfyniad ac yna mae'n rhaid iddo hysbysu'r ymarferydd am-

- (a) ei benderfyniad a'r rhesymau (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt); a
- (b) unrhyw hawl i apelio o dan reoliad 15

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(7) Pan fydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd am unrhyw benderfyniad a wnaed yn unol â'r rheoliad hwn, mae'n rhaid iddo roi gwybod i'r ymarferydd os yw'n dymuno gweithredu'r hawl i apelio, mae'n rhaid i'r ymarferydd wneud hynny o fewn 28 diwrnod, gan ddechrau gyda'r dyddiad y rhoddwyd hysbysiad o'r penderfyniad, ac mae'n rhaid i'r Bwrdd ddweud wrth yr ymarferydd sut i weithredu unrhyw hawl o'r fath.

(8) Mae'n rhaid i'r Bwrdd Iechyd Lleol hefyd hysbysu'r ymarferydd am hawl yr ymarferydd i gael adolygiad o'r penderfyniad yn unol â rheoliad 14.

(9) Pan fo Bwrdd Iechyd Lleol yn penderfynu y caiff ymarferydd-

- (a) gael ei gynnwys ar ei restr atodol, ond yn ddarostyngedig i amodau a osodwyd o dan y rheoliad hwn; neu
- (b) y bydd yn ddarostyngedig i amodau tra bydd yr ymarferydd wedi ei gynnwys ar ei restr atodol,

gellir cynnwys enw'r ymarferydd (neu barhau i'w ei gynnwys) ar ei restr atodol yn ystod y cyfnod y gellir dod ag apêl ger bron yr FHSAA yn unol â rheoliad 15, neu os ceir apêl, hyd nes bydd yr apêl wedi ei benderfynu, cyn belled â bod yr ymarferydd yn cytuno mewn ysgriflen i gael ei rwymo gan yr amodau a osodir hyd nes bydd yr amser apelio wedi mynd heibio neu hyd nes y bo'r apêl wedi ei benderfynu.

### **Gofynion y mae'n rhaid i ymarferydd ar y rhestr atodol gydymffurfio â hwy**

9.-(1) Mae'n rhaid i ymarferydd, sydd wedi ei gynnwys ar restr atodol Bwrdd Iechyd Lleol, wneud datganiad ysgrifenedig i'r Bwrdd Iechyd Lleol hwnnw o fewn 7 diwrnod i'r digwyddiad os bydd-

- (a) yn cael ei gollfarnu am unrhyw dramgwydd troseddol yn y Deyrnas Unedig;
- (b) yn cael ei rwymo drosodd yn dilyn collfarn droseddol yn y Deyrnas Unedig;
- (c) yn derbyn rhybuddiad gan yr heddlu yn y Deyrnas Unedig;

- (a) its decision and the reasons for making it (including any facts relied upon); and
- (b) any right of appeal under regulation 15

within 7 days of making that decision.

(6) If the practitioner requests an oral hearing, this must take place before the Local Health Board reaches its decision and it must then notify the practitioner of-

- (a) its decision and the reasons for making it (including any facts relied upon); and
- (b) any right of appeal under regulation 15

within 7 days of making that decision.

(7) When the Local Health Board notifies the practitioner of any decision made in accordance with this regulation, it must inform the practitioner that if he or she wishes to exercise a right of appeal, the practitioner must do so within 28 days, beginning with the date on which notice of the decision was given, and it must tell the practitioner how to exercise any such right.

(8) The Local Health Board must also notify the practitioner of the practitioner's right to have the decision reviewed in accordance with regulation 14.

(9) Where the Local Health Board determines that a practitioner-

- (a) may be included in its supplementary list, but subject to conditions imposed under this regulation; or
- (b) is to be subject to conditions while the practitioner remains included in its supplementary list,

the practitioner's name may be included (or continue to be included) in its supplementary list during the period for bringing any appeal to the FHSAA pursuant to regulation 15, of if an appeal is brought, until such time as the appeal has been decided, provided the practitioner agrees in writing to be bound by the conditions imposed until the time for appeal has expired or the appeal is decided.

### **Requirements with which a practitioner in the supplementary list must comply**

9.-(1) A practitioner, who is included in the supplementary list of a Local Health Board, must make a declaration in writing to that Local Health Board within 7 days of its occurrence if he or she-

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

- (ch) wedi derbyn cynnig amodol o dan adran 302 o Ddeddf Gweithdrefn Droseddol (yr Alban) 1995 (cosb benodedig: cynnig amodol gan brocuradur cyllidol) neu wedi cytuno i dalu cosb o dan adran 115A o Ddeddf Gweinyddu Nawdd Cymdeithasol 1992 (cosb fel dewis arall yn lle erlyniad);
- (d) mewn achos troseddol yn yr Alban, wedi bod yn destun gorchymyn o dan adran 246(2) neu (3) o Ddeddf Gweithdrefn Droseddol (yr Alban) 1995 yn ei ryddhau yn llwyr;
- (dd) wedi ei gollfarnu yn rhywle arall am drosedd, neu'r hyn a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (e) wedi ei gyhuddo o dramgwydd troseddol yn y Deyrnas Unedig, neu wedi ei gyhuddo yn rhywle arall am drosedd a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (f) wedi cael gwybod gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall am ganlyniad unrhyw ymchwiliad i ymddygiad proffesiynol ymarferydd, a'r dyfarniad yn erbyn yr ymarferydd;
- (ff) yn dod yn destun unrhyw ymchwiliad i'w ymddygiad proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall;
- (g) yn ddarostyngedig i ymchwiliad i ymddygiad proffesiynol yr ymarferydd mewn perthynas ag unrhyw gyflogaeth bresennol neu flaenorol, neu wedi cael gwybod am ganlyniad unrhyw ymchwiliad o'r fath, pan fo'r canlyniad hwnnw yn anffafriol;
- (ng) yn ôl yr wybodaeth sydd gan yr ymarferydd, yn dod yn destun ymchwiliad gan Wasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol mewn perthynas â thwyll, neu bod yr ymarferydd yn cael gwybod am ganlyniad ymchwiliad o'r fath, pan fo'n anffafriol;
- (h) yn dod yn destun unrhyw ymchwiliad gan Fwrdd Iechyd Lleol arall, a all arwain at dynnu'r ymarferydd oddi ar unrhyw restr neu restr gyfatebol; neu
- (i) wedi ei dynnu, ei dynnu'n amodol neu wedi ei atal dros dro, wedi cael gwrthod mynediad, neu wedi ei gynnwys yn amodol ar unrhyw restr neu restr gyfatebol,
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (f) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (g) 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;
- (h) is informed by any licensing, regulatory or other body of the outcome of any investigation into the practitioner's professional conduct, and there is a finding against the practitioner;
- (i) becomes the subject of any investigation into his or her professional conduct by any licensing, regulatory or other body;
- (j) becomes subject to an investigation into the practitioner's professional conduct in respect of any current or previous employment, or is informed of the outcome of any such investigation, where it is adverse;
- (k) becomes, to the practitioner's knowledge, the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or the practitioner is informed of the outcome of such an investigation, where it is adverse;
- (l) becomes the subject of any investigation by another Local Health Board, which might lead to the practitioner's removal from any list or equivalent list; or
- (m) is removed, contingently removed or suspended from, refused admission to, or conditionally included in any list or equivalent list,

ac, os felly, rhaid i'r ymarferydd roi manylion, gan gynnwys bras ddyddiadau, a phan fo unrhyw ymchwiliad neu achos yn cael eu cynnal, natur yr ymchwiliad neu'r achos hwnnw, ac unrhyw ganlyniad.

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



(2) Rhaid i ymarferydd sydd wedi cael ei gynnwys ar restr atodol Bwrdd Iechyd Lleol ac sydd, neu a oedd yn y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn gyfarwyddwr corff corfforaethol, wneud datganiad ysgrifenedig i'r Bwrdd Iechyd Lleol hwnnw o fewn 7 diwrnod iddo ddigwydd os yw'r corff corfforaethol hwnnw-

- (a) wedi ei gollfarnu am unrhyw dramgwydd troseddol yn y Deyrnas Unedig;
- (b) wedi ei gollfarnu yn rhywle arall am drosedd, neu'r hyn a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (c) wedi ei gyhuddo o dramgwydd troseddol yn y Deyrnas Unedig, neu wedi ei gyhuddo yn rhywle arall o drosedd a fyddai'n cael ei ystyried yn dramgwydd troseddol pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (ch) wedi cael gwybod gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall am ganlyniad unrhyw ymchwiliad i'w ddarpariaeth o wasanaethau proffesiynol, a bod y dyfarniad yn erbyn y corff corfforaethol;
- (d) yn dod yn destun unrhyw ymchwiliad i'w ddarpariaeth o wasanaethau proffesiynol gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall;
- (dd) yn dod, fel y gŵyr yr ymarferydd yn destun unrhyw ymchwiliad mewn perthynas â thwyll, neu'n cael gwybod am ganlyniad ymchwiliad o'r fath, pan fo'n'n anffafriol;
- (e) yn dod yn destun unrhyw ymchwiliad gan Fwrdd Iechyd Lleol arall neu gorff cyfatebol, a all arwain at ei dynnu oddi ar unrhyw restr neu restr gyfatebol; neu
- (f) wedi ei dynnu, ei dynnu'n amodol neu ei atal dros dro, wedi cael ei wrthod rhag cael ei gynnwys ar y rhestr, neu wedi ei gynnwys yn amodol ar unrhyw restr neu restr gyfatebol,

ac, os felly, yn rhoi enw a chyfeiriad cofrestredig y corff corfforaethol a manylion, gan gynnwys bras ddyddiadau, pan fydd ymchwiliad neu achos wedi bod neu eto i ddod, natur yr ymchwiliad neu achos, ac unrhyw ganlyniad.

(3) Rhaid i ymarferydd sydd wedi ei gynnwys ar restr atodol Bwrdd Iechyd Lleol roi caniatâd i gais gael ei wneud gan y Bwrdd Iechyd Lleol hwnnw i unrhyw gyflogwr neu gyn gyflogwr, corff trwyddedu, rheoleiddio neu gorff arall yn y Deyrnas Unedig neu rywle arall, am wybodaeth sy'n ymwneud ag ymchwiliad cyfredol, neu ymchwiliad lle yr oedd y canlyniad yn anffafriol, gan y cyflogwr neu'r corff hwnnw i'r ymarferydd neu gorff corfforaethol y cyfeirir ato ym mharagraff (1) neu (2) ac, at ddibenion y paragraff hwn, mae "cyflogwr" yn cynnwys partneriaeth y mae'r ymarferydd yn aelod ohoni neu y bu yn aelod ohoni.

(2) A practitioner who is included in the supplementary list of a Local Health Board and is, or was in the preceding six months, or was at the time of the originating events, a director of a body corporate, must make a declaration in writing to that Local Health Board 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;
- (c) 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;
- (d) is informed by any licensing, regulatory or other body of the outcome of any investigation into its provision of professional services, and there is an 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;
- (f) becomes to the practitioner's knowledge the subject of any investigation in relation to fraud, or is informed of the outcome of such an investigation, where it is adverse;
- (g) becomes the subject of any investigation by another Local Health Board or equivalent body, which might lead to its removal from any list or equivalent list; or
- (h) is removed, contingently removed or suspended from, refused admission to, or conditionally included in any list or equivalent list,

and, if so, give the name and registered address 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.

(3) A practitioner who is included in the supplementary list of a Local Health Board must consent to a request being made by that 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, by that employer or body into the practitioner or a body corporate referred to in paragraph (1) or (2) and, for the purposes of this paragraph, "employer" includes any partnership of which the practitioner is or was a member.

(4) Rhaid i ymarferydd sydd wedi ei gynnwys ar restr atodol Bwrdd Iechyd Lleol roddi i'r Bwrdd Iechyd Lleol hwnnw dystysgrif cofnod troseddol fwy manwl o dan adran 115 o Ddeddf yr Heddlu 1997(1) mewn perthynas â'r ymarferydd, os yw'r Bwrdd Iechyd Lleol ar unrhyw adeg, am achos rhesymol, yn rhoi hysbysiad iddo ddarparu tystysgrif o'r fath.

### Tynnu oddi ar y rhestr atodol

10.-(1) Rhaid i'r Bwrdd Iechyd Lleol dynnu ymarferydd oddi ar ei restr atodol os daw yn ymwybodol bod yr ymarferydd-

- (a) wedi cael ei gollfarnu yn y Deyrnas Unedig am lofruddiaeth;
- (b) wedi cael ei gollfarnu yn y Deyrnas Unedig am dramgwydd troseddol, ar wahân i lofruddiaeth, a gyflawnwyd ar neu ar ôl 1 Chwefror 2006, ac mae wedi cael ei ddeddfydu i gyfnod mewn carchar o dros chwe mis;
- (c) yn ddarostyngedig i anghymhwysiad cenedlaethol;
- (ch) wedi marw;
- (d) fel arall wedi peidio â bod yn ymarferydd;
- (dd) yn achos ymarferydd sy'n ymarferydd meddygol offthalmig, yn destun-
  - (i) cyfarwyddyd a roddwyd gan Bwyllgor Ymddygiad Proffesiynol y Cyngor Meddygol Cyffredinol o dan adran 36(1)(i) neu (ii) o Ddeddf Feddygol 1983(2) (camymddygiad proffesiynol a thrangwyddau troseddol),
  - (ii) gorchymyn neu gyfarwyddyd a wnaed gan y Pwyllgor hwnnw o dan adran 38(1) o Ddeddf Feddygol 1983 (gorchymyn i atal dros dro ar unwaith), neu
  - (iii) ar ôl i erthygl 13 o Orchymyn Deddf Feddygol 1983 (Diwygio) 2002 ddod i rym, cyfarwyddyd gan Banel Ffitrwydd i Ymarfer y Cyngor Meddygol Cyffredinol ar gyfer dileu neu atal dros dro ar unwaith o dan adran 35D(2)(a) neu (b), 10(a) neu (b), neu 12(a) neu (b) (swyddogaethau Panel Ffitrwydd i Ymarfer), neu adran 38(1) (pŵer i orchymyn atal dros dro ar unwaith etc.) o Ddeddf Feddygol 1983;
- (e) yn achos ymarferydd sy'n optegydd, yn destun gorchymyn atal dros dro o dan adran 17 o Ddeddf Optegwyr;

(1) 1997 p.50; diwygiadau sy'n berthnasol yw Deddf 2001, adran 19(1), (2) a (3); a Deddf 2002, adran 2(5) a pharagraff 54 o Atodlen 2.

(2) 1983 p.54; diwygiwyd adran 36 gan O.S.2000/1803.

(4) A practitioner who is included in the supplementary list of a Local Health Board must supply that Local Health Board with an enhanced criminal record certificate under section 115 of the Police Act 1997(1) in relation to the practitioner, if the Local Health Board at any time, for reasonable cause, gives him or her notice to provide such a certificate.

### Removal from supplementary list

10.-(1) The Local Health Board must remove a practitioner from its supplementary list where it becomes aware that the practitioner-

- (a) has been convicted in the United Kingdom of murder;
- (b) has been convicted in the United Kingdom of a criminal offence, other than murder, committed on or after 1 February 2006, and has been sentenced to a term of imprisonment of over six months;
- (c) is subject to a national disqualification;
- (d) has died;
- (e) has otherwise ceased to be a practitioner;
- (f) in the case of a practitioner who is an ophthalmic medical practitioner, is the subject of-
  - (i) a direction given by the Professional Conduct Committee of the General Medical Council under section 36(1)(i) or (ii) of the Medical Act 1983(2) (professional misconduct and criminal offences),
  - (ii) an order or a direction made by that Committee under section 38(1) of the Medical Act 1983 (order for immediate suspension), or
  - (iii) from the coming into force of article 13 of the Medical Act 1983 (Amendment) Order 2002, a direction by a Fitness to Practise Panel of the General Medical Council for erasure or immediate suspension under section 35D(2)(a) or (b), 10(a) or (b), or 12(a) or (b) (functions of a Fitness to Practise Panel), or section 38(1) (power to order immediate suspension etc.) of the Medical Act 1983;
- (g) in the case of a practitioner who is an optician, is the subject of a suspension order under section 17 of the Opticians Act;

(1) 1997 c.50; relevant amendments are the 2001 Act, section 19(1), (2) and (3); and the 2002 Act, section 2(5) and paragraph 54 of Schedule 2.

(2) 1983 c.54; section 36 was amended by S.I.2000/1803

(f) yn achos ymarferydd sy'n optegydd, yn destun cyfarwyddyd a wnaed gan Bwyllgor Ffitrwydd i Ymarfer y Cyngor Optegol Cyffredinol, ac eithrio mewn achos iechyd i ddileu enw'r ymarferydd oddi ar y gofrestr briodol neu atal dros dro gofrestrriad yr ymarferydd o dan adran 13F(3)(a) neu (b), 7(a) neu (b) neu 13(a) neu (b) (pwerau'r Pwyllgor Addasrwydd i Ymarfer) o'r Ddeddf Optegydd;

(ff) wedi ei gynnwys ar restr offthalmig unrhyw Fwrdd Iechyd Lleol, neu restr atodol Bwrdd Iechyd Lleol arall,

ac mae'n rhaid iddo, ac eithrio mewn achos sy'n disgyn o fewn is-baragraff (ch), hysbysu'r ymarferydd ar unwaith ei fod wedi gwneud hynny.

(2) Ym mharagraff (1), mae gan "achos iechyd" yr ystyr a roddwyd i "health case" yn adran 13G(6) o'r Ddeddf Optegydd.

(3) Pan fo'r Bwrdd Iechyd Lleol yn cael ei hysbysu gan yr FHSAA ei fod wedi ystyried apêl gan ymarferydd yn erbyn-

(a) cael ei dynnu yn amodol oddi ar y rhestr gan y Bwrdd Iechyd Lleol a'i fod wedi penderfynu tynnu'r ymarferydd oddi ar y rhestr yn lle hynny; neu

(b) ei gynnwys yn amodol ar y rhestr, pan fo'r ymarferydd wedi cael ei gynnwys yn amodol ar y rhestr atodol hyd nes bydd yr apêl wedi ei benderfynu, ac wedi penderfynu peidio â chynnwys yr ymarferydd ar y rhestr,

rhaid i'r Bwrdd Iechyd Lleol dynnu'r ymarferydd oddi ar ei restr atodol a rhaid iddo hysbysu'r ymarferydd ar unwaith ei fod wedi gwneud hynny.

(4) Caiff y Bwrdd Iechyd Lleol dynnu ymarferydd oddi ar ei restr atodol os bydd unrhyw un o'r amodau sydd wedi eu nodi ym mharagraff (5) yn cael eu bodloni.

(5) Dyma'r amodau sydd wedi eu crybwyll ym mharagraff (4)-

(a) y byddai parhau i gynnwys yr ymarferydd hwnnw ar y rhestr atodol yn niweidiol i effeithlonrwydd y gwasanaethau y mae'r rhai sydd wedi eu cynnwys ar y rhestr yn helpu i'w darparu ("achos effeithlonrwydd");

(b) bod yr ymarferydd yn gysylltiedig ag achos twyll mewn perthynas ag unrhyw gynllun iechyd; neu

(c) nad yw'r ymarferydd yn addas i'w gael ei gynnwys ar y rhestr honno ("achos o anaddasrwydd").

(6) At ddibenion y rheoliad hwn, yn ogystal â'r gwasanaethau sydd wedi eu cynnwys gan y diffiniad o "gynllun iechyd" yn adran 48F(8), mae'r canlynol yn gynlluniau iechyd hefyd-

(h) in the case of a practitioner who is an optician, is the subject of a direction made by the Fitness to Practise Committee of the General Optical Council other than in a health case to erase the practitioner's name from the appropriate register or suspend the practitioner's registration under section 13F(3)(a) or (b), 7(a) or (b) or 13(a) or (b) (powers of the Fitness to Practise Committee) of the Opticians Act;

(i) is included in the ophthalmic list of any Local Health Board, or the supplementary list of another Local Health Board,

and must, except in a case falling within sub-paragraph (d), notify the practitioner immediately that it has done so.

(2) In paragraph (1), "health case" has the meaning given to it in section 13G(6) of the Opticians Act.

(3) Where the Local Health Board is notified by the FHSAA that it has considered an appeal by a practitioner against-

(a) a contingent removal by the Local Health Board and it has decided to remove the practitioner instead; or

(b) a conditional inclusion, where the practitioner has been conditionally included in the supplementary list until the appeal has been decided, and has decided not to include the practitioner,

the Local Health Board must remove the practitioner from its supplementary list and must notify the practitioner immediately that it has done so.

(4) The Local Health Board may remove a practitioner from its supplementary list where any of the conditions set out in paragraph (5) is satisfied.

(5) The conditions mentioned in paragraph (4) are that-

(a) the continued inclusion of that practitioner in the supplementary list would be prejudicial to the efficiency of the services which those included in the list assist in providing ("an efficiency case");

(b) the practitioner is involved in a fraud case in relation to any health scheme; or

(c) the practitioner is unsuitable to be included in that list ("an unsuitability case").

(6) For the purposes of this regulation, in addition to the services covered by the definition of "health scheme" in section 48F(8), the following are also health schemes-

- (a) gwasanaethau iechyd, gan gynnwys triniaeth feddygol a llawfeddygol, a ddarperir gan Lloedd Ei Mawrhydi;
- (b) gwasanaethau a ddarperir gan Awdurdodau Iechyd Porthladdoedd sydd wedi eu cynnwys o dan Ddeddf Iechyd Cyhoeddus (Rheoli Afiechydon) 1984(1);
- (c) gwasanaethau iechyd a ddarparwyd i garcharor yng ngofal swyddog meddygol neu swyddog carchar a benodwyd at bwrpas adran 7 o Ddeddf Carchar 1952(2); ac
- (ch) gwasanaethau iechyd a ariannir gan arian cyhoeddus a ddarperir gan neu ar ran unrhyw sefydliad yn unrhyw le yn y byd.

(7) Os na all yr ymarferydd ddangos ei fod wedi helpu i ddarparu gwasanaethau offthalmig cyffredinol o fewn ardal y Bwrdd Iechyd Lleol yn ystod y chwe mis blaenorol, caiff y Bwrdd Iechyd Lleol dynnu'r ymarferydd oddi ar ei restr atodol.

(8) Wrth gyfrifo'r cyfnod o chwe mis y cyfeiriwyd ato ym mharagraff (7), bydd y Bwrdd Iechyd Lleol yn diystyru unrhyw gyfnod yr oedd yr ymarferydd-

- (a) wedi ei atal dros dro o dan y Rheoliadau hyn; neu
- (b) yn cyflawni gwasanaeth amser llawn yn Lloedd Arfog y Goron-
  - (i) mewn argyfwng cenedlaethol fel gwirfoddolwr neu fel arall; neu
  - (ii) a oedd yn orfodol, gan gynnwys gwasanaeth o ganlyniad i unrhyw atebolrwydd wrth gefn neu wasanaeth cyfatebol gan berson sydd yn atebol i wasanaeth llawn amser yn y lloedd hynny.

(9) Lle bo Bwrdd Iechyd Lleol yn ystyried tynnu ymarferydd oddi ar ei restr atodol o dan baragraffau (4) i (7), rheoliad 8, 12(4)(c) neu 15(6) neu dynnu yr ymarferydd yn amodol o dan reoliad 12, mae'n rhaid i'r Bwrdd roi i'r ymarferydd-

- (a) hysbysiad am unrhyw honiad yn ei erbyn;
- (b) hysbysiad ynglyn â pha gamau gweithredu y mae'n eu hystyried ac ar ba sail;
- (c) y cyfle i wneud sylwadau ysgrifenedig i'r Bwrdd o fewn 28 o ddiwrnodau o ddyddiad yr hysbysiad o dan is-baragraff (b); ac
- (ch) cyfle i gyflwyno ei achos mewn gwrandawriad llafar o flaen y Bwrdd, os yw'r ymarferydd yn gofyn am hynny o fewn y cyfnod o 28 o ddiwrnodau y cyfeiriwyd ato yn is-baragraff (c).

- (a) health services, including medical and surgical treatment, provide by Her Majesty's Forces;
- (b) services provided by Port Health Authorities constituted under the Public Health (Control of Diseases) Act 1984(1);
- (c) health services provided to a prisoner in the care of a medical officer or such officer of a prison appointed for the purposes of section 7 of the Prison Act 1952(2); and
- (d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.

(7) Where the practitioner cannot demonstrate that he or she assisted in the provision of general ophthalmic services within the Local Health Board's area during the preceding six months, it may remove the practitioner from its supplementary list.

(8) In calculating the period of six months referred to in paragraph (7), the Local Health Board will disregard any period during which the practitioner was-

- (a) suspended under these Regulations; or
- (b) performing whole-time service in the Armed Forces of the Crown-
  - (i) in a national emergency as a volunteer or otherwise; or
  - (ii) which was compulsory, including service resulting from any reserve liability or equivalent service by a person liable for whole-time service in those forces.

(9) Where a Local Health Board is considering removing a practitioner from its supplementary list under paragraphs (4) to (7), regulation 8, 12(4)(c) or 15(6) or contingently removing the practitioner under regulation 12, it must give the practitioner-

- (a) notice of any allegation against him or her;
- (b) notice of what action it is considering and on what grounds;
- (c) the opportunity to make written representations to it within 28 days of the date of notification under sub-paragraph (b); and
- (d) the opportunity to put his or her case at an oral hearing before it, if the practitioner so requests within the 28 day period referred to in sub-paragraph (c).

(1) 1984 p.22.

(2) 1952 p.52.

(1) 1984 c.22

(2) 1952 c.52

(10) Os nad oes sylwadau o fewn y cyfnod a nodir ym mharagraff (9)(c), rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd o'i-

(a) penderfyniad a'r rhesymau am y penderfyniad (gan gynnwys unrhyw ffeithiau y dibynnir arnynt); ac

(b) unrhyw hawl i apelio o dan reoliad 15

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(11) Os bydd yr ymarferydd yn gwneud sylwadau mae'n rhaid i'r Bwrdd Iechyd Lleol roi ystyriaeth iddynt cyn dod i benderfyniad, a rhaid i'r Bwrdd hysbysu'r ymarferydd beth yw ei-

(a) penderfyniad a'r rhesymau (gan gynnwys unrhyw ffeithiau y dibynnir arnynt); a

(b) unrhyw hawl i apelio o dan reoliad 15,

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(12) Os bydd yr ymarferydd yn gofyn am wrandawriad llafar, rhaid i'r gwrndawriad gael ei gynnal cyn i'r Bwrdd Iechyd Lleol ddod i benderfyniad a rhaid i'r Bwrdd wedyn hysbysu'r ymarferydd-

(a) beth yw ei benderfyniad a'r rhesymau (gan gynnwys unrhyw ffeithiau y dibynnir arnynt); a

(b) am unrhyw hawl i apelio o dan reoliad 15,

o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(13) Pan fydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd am unrhyw benderfyniad mae'n rhaid iddo roi gwybod i'r ymarferydd os yw eisiau defnyddio ei hawl i apelio yna mae'n rhaid iddo wneud hynny o fewn y cyfnod o 28 o ddiwrnodau gan ddechrau gyda'r dyddiad y rhoddodd wybod i'r ymarferydd am ei benderfyniad ac mae'n rhaid i'r Bwrdd hefyd ddweud wrth yr ymarferydd sut i ddefnyddio unrhyw hawl o'r fath.

(14) Mae'n rhaid i'r Bwrdd Iechyd Lleol hefyd hysbysu'r ymarferydd am hawl yr ymarferydd i gael adolygiad o'r penderfyniad yn unol â rheoliad 14.

(15) Pan fo'r Bwrdd Iechyd Lleol yn penderfynu tynnu'r ymarferydd oddi ar y rhestr o dan baragraff (4) neu (7), ni chaiff yr ymarferydd ei dynnu oddi ar ei restr atodol tan-

(a) diwedd cyfnod o 28 o ddiwrnodau gan ddechrau gyda'r diwrnod y mae'r Bwrdd Iechyd Lleol yn dod i benderfyniad; neu

(b) y bydd yr FHSAA wedi ymdrin ag unrhyw apêl,

pa un bynnag sy'n digwydd olaf.

(10) If there are no representations within the period specified in paragraph (9)(c), the Local Health Board must notify the practitioner of-

(a) its decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 15

within 7 days of making that decision.

(11) If the practitioner makes representations the Local Health Board must take them into account before reaching its decision, and must notify the practitioner of-

(a) its decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 15,

within 7 days of making that decision.

(12) If the practitioner requests an oral hearing, this must take place before the Local Health Board reaches its decision and it must then notify the practitioner of-

(a) its decision and the reasons for it (including any facts relied upon); and

(b) any right of appeal under regulation 15,

within 7 days of making that decision.

(13) When the Local Health Board notifies the practitioner of any decision it must inform the practitioner that if he or she wishes to exercise a right of appeal then he or she must do so within the period of 28 days beginning with the date on which it informed the practitioner of its decision and it must also tell the practitioner how to exercise any such right.

(14) The Local Health Board must also notify the practitioner of the practitioner's right to have the decision reviewed in accordance with regulation 14.

(15) Where the Local Health Board decides to remove a practitioner under paragraph (4) or (7), the practitioner will not be removed from its supplementary list until-

(a) the end of a period of 28 days starting with the day on which the Local Health Board reaches its decision; or

(b) any appeal is disposed of by the FHSAA,

whichever is the later.

## Meini prawf ar gyfer penderfyniad i dynnu oddi ar y rhestr atodol

11.-(1) Lle mae Bwrdd Iechyd Lleol yn ystyried a ddylid tynnu ymarferydd oddi ar ei restr atodol o dan reoliad 10(4) a (5)(c) ("achos anaddasrwydd") rhaid iddo-

- (a) ystyried unrhyw wybodaeth sy'n ymwneud â'r ymarferydd y mae wedi ei derbyn yn unol ag unrhyw ddarpariaeth o reoliad 9;
- (b) ystyried unrhyw wybodaeth sydd gan Gynulliad Cenedlaethol Cymru am unrhyw gofnod ynglŷn ag ymchwiliadau neu achosion cyfredol neu yn y gorffennol sy'n bethnasol i, neu sy'n gysylltiedig â'r ymarferydd; ac
- (c) wrth ddod i benderfyniad, yn rhoi ystyriaeth i'r materion sydd wedi eu nodi ym mharagraff (2).

(2) Dyma'r materion y cyfeirir atynt ym mharagraff (1)(c)-

- (a) natur unrhyw drosedd, ymchwiliad neu ddigwyddiad;
- (b) hyd yr amser ers i unrhyw drosedd, digwyddiad, collfarn neu ymchwiliad ddigwydd neu ddod i ben;
- (c) a oes troseddau, digwyddiadau neu ymchwiliadau eraill i'w hystyried;
- (ch) unrhyw gamau gweithredu a gymerwyd neu gosb a osodwyd gan unrhyw gorff trwyddedu neu reoleiddio, yr heddlu neu'r llysoedd o ganlyniad i unrhyw drosedd, digwyddiad neu ymchwiliad o'r fath;
- (d) perthnasedd unrhyw drosedd, digwyddiad neu ymchwiliad mewn perthynas â darpariaeth yr ymarferydd o wasanaethau offthalmig cyffredinol ac unrhyw risg tebygol i unrhyw gleifion neu gyllid cyhoeddus;
- (dd) a oedd unrhyw dramgwydd troseddol yn drosedd rhywiol at ddibenion Rhan 2 o Ddeddf Troseddau Rhywiol 2003, neu a fyddai wedi cael ei ystyried yn drosedd o'r fath pe bai wedi ei gyflawni yng Nghymru a Lloegr;
- (e) a yw'r ymarferydd wedi cael gwrthod mynediad, wedi ei gynnwys yn amodol, ei dynnu neu ei dynnu'n amodol neu wedi ei atal ar hyn o bryd o unrhyw restr neu restr gyfatebol, ac os felly, y rhesymau sy'n gysylltiedig â'r mater a arweiniodd at weithredu o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol am weithredu felly; ac
- (f) a oedd yr ymarferydd ar y pryd, yn y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn gyfarwyddwr corff corfforaethol y gwrthodwyd ei gynnwys ar y rhestr, a gafodd ei gynnwys yn amodol, ei dynnu neu ei dynnu'n amodol oddi ar unrhyw

## Criteria for a decision on removal

11.-(1) Where a Local Health Board is considering whether to remove a practitioner from its supplementary list under regulation 10(4) and (5)(c) ("an unsuitability case") it must-

- (a) consider any information relating to the practitioner which it has received in accordance with any provision of regulation 9;
- (b) consider any information held by the National Assembly for Wales as to any record about past or current investigations or proceedings involving or related to the practitioner; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (2).

(2) The matters referred to in paragraph (1)(c) are-

- (a) the nature of any offence, investigation or incident;
- (b) the length of time since any offence, incident conviction or investigation occurred or was concluded;
- (c) whether there are other offences, incidents or investigations to be considered;
- (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
- (e) the relevance of any offence, incident or investigation in respect of the practitioner's provision of general ophthalmic services and any likely risk to any patients or to public finances;
- (f) whether any criminal offence was a sexual offence for the purposes of Part 2 of the Sexual Offences Act 2003, or if it had been committed in England and Wales, would have been such an offence;
- (g) whether the practitioner has been refused admittance to, conditionally included in, removed or contingently removed or is currently suspended from, any list or any equivalent list, and if so, the reasons relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action; and
- (h) whether the practitioner was 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 was refused admission to, conditionally included in, removed or contingently removed from any list or

restr neu restr gyfatebol neu sydd wedi ei atal ar hyn o bryd oddi wrth unrhyw restr o'r fath, ac os felly, beth oedd y ffeithiau ym mhob achos o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol ym mhob achos am weithredu o'r fath.

(3) Pan fo Bwrdd Iechyd Lleol yn ystyried tynnu ymarferydd oddi ar ei restr atodol neu beidio, o dan reoliad 10(4) a (5)(b) ("achos o dwyll"), mae'n rhaid i'r Bwrdd ystyried-

- (a) unrhyw wybodaeth sy'n gysylltiedig â'r ymarferydd y mae wedi ei derbyn yn unol ag unrhyw ddarpariaeth yn rheoliad 9;
- (b) unrhyw wybodaeth sydd gan Gynulliad Cenedlaethol Cymru am unrhyw gofnod ynglŷn ag ymchwiliadau neu achosion cyfredol neu yn y gorffennol sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd; ac
- (c) materion sydd wedi eu nodi ym mharagraff (4).

(4) Dyma'r materion y cyfeirir atynt ym mharagraff (3)(c)-

- (a) natur unrhyw ddigwyddiadau neu dwyll;
- (b) hyd yr amser ers y digwyddiad diwethaf o dwyll ac ers i unrhyw ymchwiliad iddo ddod i ben;
- (c) a oes digwyddiadau eraill o dwyll neu dramgwyddau troseddol eraill i'w hystyried;
- (ch) unrhyw gamau gweithredu a gymerwyd gan unrhyw gorff trwyddedu, rheoleiddio neu arall, neu gan yr heddlu neu'r llysoedd o ganlyniad i drosedd, ymchwiliad neu ddigwyddiad o'r fath;
- (d) perthnasedd unrhyw ymchwiliad i ddigwyddiad o dwyll i'r ymarferydd sy'n helpu i ddarparu gwasanaethau offthalmig cyffredinol a'r risg tebygol i gleifion neu gyllid cyhoeddus;
- (dd) a yw'r ymarferydd wedi cael ei wrthod rhag cael ei gynnwys ar y rhestr, wedi ei gynnwys yn amodol, ei dynnu neu ei dynnu'n amodol neu wedi ei atal ar hyn o bryd oddi ar unrhyw restr neu restr gyfatebol, ac os felly, y ffeithiau sy'n gysylltiedig â'r mater a arweiniodd at weithredu o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol am weithredu o'r fath;
- (e) a oedd yr ymarferydd ar yr adeg honno, yn ystod y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn gyfarwyddwr corff corfforaethol, y gwrthodwyd ei gynnwys ar y rhestr, a gafodd ei gynnwys yn amodol, a gafodd ei dynnu neu ei dynnu'n amodol oddi ar unrhyw restr neu restr gyfatebol, neu sydd wedi ei atal ar hyn o bryd o unrhyw restr o'r fath, ac os felly, beth oedd y ffeithiau ym mhob achos o'r fath a'r rhesymau a roddwyd gan y

equivalent list or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each case for such action.

(3) Where a Local Health Board is considering whether to remove a practitioner from its supplementary list under regulation 10(4) and (5)(b) ("a fraud case"), it must consider-

- (a) any information relating to the practitioner which it has received in accordance with any provision of regulation 9;
- (b) any information held by the National Assembly for Wales as to any record about past or current investigations or proceedings involving or relating to the practitioner; and
- (c) the matters set out in paragraph (4).

(4) The matters referred to in paragraph (3)(c) are-

- (a) the nature of any incidents of fraud;
- (b) the length of time since the last incidence of fraud occurred and since any investigation into it was concluded;
- (c) whether there are other incidents of fraud 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 any such offence, investigation or incident;
- (e) the relevance of any investigation into an incident of fraud to the practitioner assisting in the provision of general ophthalmic services and the likely risk to patients or to public finances;
- (f) whether the practitioner has been refused admittance to, conditionally included in, removed or contingently removed or is currently suspended from, any list or any equivalent list, and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action;
- (g) whether the practitioner was 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 was refused admission to, conditionally included in, removed or contingently removed from, any list or equivalent list, or is currently suspended from any such list, and if so, what the facts were in each such case and the reasons given by the Local Health Board or equivalent body in each

Bwrdd Iechyd Lleol neu gorff cyfatebol ym mhob achos.

(5) Pan fo Bwrdd Iechyd Lleol yn ystyried tynnu ymarferydd oddi ar ei restr atodol o dan reoliad 10(4) a (5)(a) ("achos o effeithlonrwydd"), mae'n rhaid iddo-

- (a) ystyried unrhyw wybodaeth sy'n gysylltiedig â'r ymarferydd y mae wedi ei derbyn yn unol ag unrhyw ddarpariaeth yn rheoliad 9;
- (b) ystyried unrhyw wybodaeth sydd gan Gynulliad Cenedlaethol Cymru am unrhyw gofnod ynglŷn ag ymchwiliadau neu achosion cyfredol neu yn y gorffennol sy'n bethnasol i, neu yn gysylltiedig â'r ymarferydd; ac
- (c) materion y cyfeirir atynt ym mharagraff (6).

(6) Dyma'r materion y cyfeirir atynt ym mharagraff (5)(c)-

- (a) natur unrhyw ddigwyddiad a oedd yn niweidiol i effeithlonrwydd y gwasanaethau offthalmig cyffredinol yr oedd yr ymarferydd wedi helpu i'w darparu;
- (b) hyd yr amser ers y digwyddiad diwethaf ac ers y daeth unrhyw ymchwiliad iddo i ben;
- (c) unrhyw gamau gweithredu a gymerwyd gan unrhyw gorff trwyddedu, rheoleiddio neu gorff arall, yr heddlu neu'r llysoedd o ganlyniad i unrhyw ddigwyddiad o'r fath;
- (ch) natur y digwyddiad ac a oes risg tebygol i gleifion neu beidio;
- (d) a yw'r ymarferydd wedi methu'n flaenorol i gyflenwi gwybodaeth, i wneud datganiad neu i gydymffurfio gydag ymrwymiad sy'n ofynnol gan y Rheoliadau hyn neu'r Rheoliadau Offthalmig;
- (dd) a yw'r ymarferydd erioed wedi methu â chydymffurfio â chais gan y Bwrdd Iechyd Lleol i gymryd asesiad gan yr NCAA ar neu cyn 31 Mawrth 2005 neu ar ôl hynny gan yr NPSA;
- (e) a yw'r ymarferydd wedi cael gwrthod mynediad, wedi ei gynnwys yn amodol, wedi ei dynnu neu ei dynnu'n amodol neu a yw wedi ei atal ar hyn o bryd oddi ar unrhyw restr neu restr gyfatebol, ac os felly, y ffeithiau sy'n gysylltiedig â'r mater a arweiniodd at weithredu o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu'r corff cyfatebol am weithredu o'r fath; ac
- (f) a oedd yr ymarferydd ar yr adeg honno, yn y chwe mis blaenorol, neu adeg y digwyddiadau cychwynnol, yn gyfarwyddwr corff corfforaethol y gwrthodwyd ei gynnwys ar y rhestr, a gafodd ei gynnwys yn amodol, ei dynnu neu ei dynnu'n amodol oddi ar unrhyw restr neu restr gyfatebol, neu a yw wedi ei atal

case.

(5) Where a Local Health Board is considering removal of a practitioner from its supplementary list under regulation 10(4) and (5)(a) ("an efficiency case"), it must-

- (a) consider any information relating to the practitioner which it has received in accordance with any provision of regulation 9;
- (b) consider any information held by the National Assembly for Wales as to any record about past or current investigations or proceedings involving or relating to the practitioner; and
- (c) the matters referred to in paragraph (6).

(6) The matters referred to in paragraph (5)(c) are-

- (a) the nature of any incident which was prejudicial to the efficiency of the general ophthalmic services that the practitioner assisted in providing;
- (b) the length of time since the last incident occurred and since any investigation into it 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 practitioner has previously failed to supply information, make a declaration or comply with an undertaking required by these Regulations or the Ophthalmic Regulations;
- (f) whether the practitioner has ever failed to comply with a request by the Local Health Board to take an assessment by the NCAA on or before 31 March 2005 or thereafter by the NPSA;
- (g) whether the practitioner has been refused admittance to, conditionally included in, removed or contingently removed or is currently suspended from, any list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or the equivalent body for such action; and
- (h) whether the practitioner was 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 was refused admission to, conditionally included in, removed or contingently removed from any list or equivalent list, or is currently suspended from any such list, and if so, what the facts were in



ar hyn o bryd oddi ar unrhyw restr o'r fath, ac os felly, beth oedd y ffeithiau ym mhob achos o'r fath a'r rhesymau a roddwyd gan y Bwrdd Iechyd Lleol neu gorff cyfatebol ym mhob achos am weithredu o'r fath.

(7) Wrth wneud unrhyw benderfyniad o dan reoliad 10, rhaid i'r Bwrdd Iechyd Lleol roi ystyriaeth i effaith gyffredinol unrhyw ddigwyddiadau a throseddau perthnasol sy'n gysylltiedig â'r ymarferydd y mae'n ymwybodol ohonynt, beth bynnag yw'r amod y mae'n dibynnu arno.

(8) Wrth wneud penderfyniad ynglŷn ag unrhyw amod yn rheoliad 10(5), rhaid i'r Bwrdd Iechyd Lleol nodi yn ei benderfyniad ar ba amod y mae'n dibynnu arno.

### **Tynnu'n amodol oddi ar y rhestr**

12.-(1) Mewn achos o effeithlonrwydd neu achos o dwyll caiff y Bwrdd Iechyd Lleol, yn lle penderfynu tynnu ymarferydd oddi ar ei restr atodol, benderfynu tynnu'r ymarferydd yn amodol a bydd rheoliad 10(13) a (14) yn gymwys i'r penderfyniad hwnnw.

(2) Pan fo'r Bwrdd yn penderfynu felly, rhaid iddo osod amodau o'r fath fel y gall benderfynu cynnwys yr ymarferydd ar ei restr atodol gyda'r bwriad o-

- (a) ddileu unrhyw beth a all fod yn niweidiol i effeithlonrwydd y gwasanaethau dan sylw (mewn achos effeithlonrwydd); neu
- (b) atal gweithredoedd neu ddiffygion pellach (mewn achos o dwyll).

(3) Pan fo'r Bwrdd Iechyd Lleol yn penderfynu tynnu ymarferydd yn amodol o dan baragraff (1) ni fydd y penderfyniad hwnnw yn dod i rym tan-

- (a) ddiwedd y cyfnod o 28 o ddiwrnodau gan ddechrau gyda'r diwrnod y bydd y Bwrdd Iechyd Lleol yn dod i benderfyniad; neu
- (b) y bydd unrhyw apêl yn cael ei benderfynu gan yr FHSAA,

pa un bynnag yw'r hwyraf.

(4) Os bydd y Bwrdd Iechyd Lleol yn penderfynu bod yr ymarferydd wedi methu â chydymffurfio ag amod gall benderfynu-

- (a) amrywio'r amodau a osodir;
- (b) gosod amodau newydd;
- (c) tynnu'r ymarferydd oddi ar ei restr atodol.

### **Atal dros dro**

13.-(1) Os bydd Bwrdd Iechyd Lleol yn fodlon fod rhaid gwneud hynny er mwyn diogelu'r cyhoedd neu er lles y cyhoedd, caiff atal ymarferydd dros dro o'i restr atodol yn unol â darpariaethau'r rheoliad hwn-

each such case and the reasons given by the Local Health Board or equivalent body in each case for such action.

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

(8) When making a decision on any condition in regulation 10(5), the Local Health Board must state in its decision on which condition it relies.

### **Contingent removal**

12.-(1) In an efficiency case or a fraud case the Local Health Board may, instead of deciding to remove a practitioner from its supplementary list, decide to remove the practitioner contingently and regulation 10(13) and (14) will apply to that decision.

(2) If it so decides, it must impose such conditions as it may decide on the practitioner's inclusion in its supplementary 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) Where the Local Health Board decides to contingently remove a practitioner under paragraph (1) that decision will not take effect until-

- (a) the end of a period of 28 days starting with the day on which the Local Health Board reaches its decision; or
- (b) any appeal is disposed of by the FHSAA,

whichever is the later.

(4) If the Local Health Board determines that the practitioner has failed to comply with a condition it may decide to-

- (a) vary the conditions imposed;
- (b) impose new conditions;
- (c) remove the practitioner from its supplementary list.

### **Suspension**

13.-(1) If a Local Health Board 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 practitioner from its supplementary list in accordance with the provisions of this regulation-

- (a) tra mae wrthi'n penderfynu a ddylid defnyddio ei bwerau i dynnu'r ymarferydd oddi ar ei restr neu beidio o dan reoliad 10 neu a ddylid tynnu'r ymarferydd oddi ar y rhestr yn amodol o dan reoliad 12;
- (b) tra mae wrthi'n aros am benderfyniad corff trwyddedu neu reoleiddio neu lys yn unrhyw ran o'r byd sy'n effeithio ar yr ymarferydd;
- (c) os bydd yn penderfynu tynnu'r ymarferydd oddi ar y rhestr, ond cyn i'r penderfyniad hwnnw ddod i rym; neu
- (ch) hyd nes ceir apêl o dan y Rheoliadau hyn.

(2) Mewn achos sy'n disgyn o fewn paragraff (1)(a), rhaid i'r Bwrdd Iechyd Lleol bennu cyfnod, o ddim mwy na chwe mis, fel cyfnod yr atal dros dro.

(3) Mewn achos sy'n disgyn o fewn paragraff (1)(b), caiff y Bwrdd Iechyd Lleol bennu bod yr ymarferydd yn parhau i fod wedi ei atal dros dro, ar ôl i'r penderfyniad y cyfeirir ato yn yr is-baragraff gael ei wneud, am gyfnod ychwanegol o ddim mwy na chwe mis.

(4) Gall cyfnod yr atal dros dro o dan baragraff (2) neu (3) ymestyn tu hwnt i chwe mis os-

- (a) bydd yr FHSAA yn gorchymyn hynny ar gais y Bwrdd Iechyd Lleol;
- (b) os gwnaeth y Bwrdd Iechyd Lleol gais o dan is-baragraff (a) cyn i'r cyfnod atal dros dro ddod i ben, ond heb i'r FHSAA wneud gorchymyn cyn iddo ddod i ben, yn yr achos hynnw bydd yn parhau hyd nes bydd yr FHSAA yn gwneud gorchymyn.

(5) Os bydd yr FHSAA yn gorchymyn hynny, rhaid iddo bennu-

- (a) y dyddiad y bydd cyfnod yr atal dros dro yn dod i ben;
- (b) na fydd cyfnod yr atal dros dro yn parhau ar ôl rhyw ddigwyddiad penodol; neu
- (c) dyddiad pryd y bydd cyfnod yr atal dros dro yn dod i ben a digwyddiad pan na fydd yn parhau ar ei ôl, ac os felly bydd yn dod i ben ar y cyntaf o'r dyddiadau neu'r digwyddiadau hynny yn ôl y digwydd.

(6) Gall yr FHSAA, ar gais y Bwrdd Iechyd Lleol, wneud gorchymyn pellach, a fydd hefyd yn gorfod cydymffurfio â pharagraff (5), ar unrhyw adeg tra bo'r cyfnod atal dros dro yn unol â'r gorchymyn cynharaf yn parhau.

(7) Os bydd y Bwrdd Iechyd Lleol yn atal dros dro ymarferydd mewn achos sy'n disgyn o fewn paragraff (1)(c) neu (ch), bydd yr atal dros dro yn cael effaith o'r dyddiad y rhoddodd y Bwrdd Iechyd Lleol wybod i'r ymarferydd am yr atal dros dro a bydd yn parhau hyd nes-

- (a) while it decides whether or not to exercise its powers to remove the practitioner under regulation 10 or contingently remove the practitioner under regulation 12;
- (b) while it waits for a decision of a licensing or regulatory body or court anywhere in the world which affects the practitioner;
- (c) where it has decided to remove the practitioner, but before that decision takes effect; or
- (d) pending an appeal under these Regulations.

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

(3) In a case falling within paragraph (1)(b), the Local Health Board may specify that the practitioner remains suspended, after the decision referred to in that sub-paragraph has been made, for an additional period not exceeding six months.

(4) The period of suspension under paragraph (2) or (3) may extend beyond six months if-

- (a) on the application of the Local Health Board, the FHSAA so orders;
- (b) the Local Health Board applied under sub-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 must 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) both a date on which it is to end and an event beyond which it is not to continue, in which case it will end on the earlier of that date or that event, as the case may be.

(6) The FHSAA may, on the application of the Local Health Board, make a further order, which must also comply with paragraph (5), at any time while the period of suspension pursuant to the earlier order is still continuing.

(7) If the Local Health Board suspends a practitioner in a case falling within paragraph (1)(c) or (d), the suspension has effect from the date the Local Health Board informed the practitioner of the suspension and will continue until-

- (a) y bydd unrhyw gyfnod apêl yn dod i ben; neu
- (b) os yw'r ymarferydd yn apelio o dan reoliad 15, hyd nes y bo'r FHSAA wedi penderfynu'r apêl.

(8) Caiff y Bwrdd Iechyd Lleol ymestyn cyfnod yr atal dros dro o dan baragraff (2) neu osod cyfnod arall o atal dros dro o dan baragraff (3), cyn belled â bod y cyfanswm yn ddim mwy na chwe mis.

(9) Effaith yr atal dros dro yw tra bod ymarferydd wedi ei atal dros dro o dan y Rheoliadau hyn rhaid i'r ymarferydd gael ei drin fel pe bai heb gael ei gynnwys ar restr atodol y Bwrdd Iechyd Lleol, er bod ei enw'n ymddangos ar y rhestr.

(10) Caiff y Bwrdd Iechyd Lleol ar unrhyw adeg ddirymu'r atal dros dro a hysbysu'r ymarferydd am ei benderfyniad.

(11) Lle bo Bwrdd Iechyd Lleol yn ystyried atal ymarferydd dros dro neu'n amrywio cyfnod yr atal dros dro o dan y rheoliad hwn, rhaid iddo roi i'r ymarferydd-

- (a) hysbysiad am unrhyw honiad yn erbyn yr ymarferydd;
- (b) hysbysiad am y camau gweithredu y mae'n ystyried eu cymryd ac ar ba sail;
- (c) y cyfle i gyflwyno ei achos mewn gwrandawriad llafar o flaen y Bwrdd, ar ddiwrnod penodedig, cyn belled â bod yr ymarferydd yn cael gwybod am y gwrandawriad o leiaf 24 awr ymlaen llaw.

(12) Os nad yw'r ymarferydd eisiau cael gwrandawriad llafar neu os nad yw'n bresennol yn y gwrandawriad llafar caiff y Bwrdd Iechyd Lleol atal yr ymarferydd ar unwaith.

(13) Os cynhelir gwrandawriad llafar, rhaid i'r Bwrdd Iechyd Lleol roi ystyriaeth i unrhyw sylwadau a wneir cyn iddo ddod i benderfyniad.

(14) Caiff y Bwrdd Iechyd Lleol atal yr ymarferydd ar unwaith ar ôl y gwrandawriad.

(15) Rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd am ei benderfyniad ac am y rhesymau am y penderfyniad (gan gynnwys unrhyw ffeithiau y dibynnir arnynt) o fewn 7 diwrnod ar ôl gwneud y penderfyniad.

(16) Rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd am unrhyw hawl i adolygu o dan reoliad 14.

(17) Yn ystod cyfnod o atal dros dro gellir gwneud taliadau i'r ymarferydd neu mewn perthynas â'r ymarferydd yn unol â phenderfyniad Cynulliad Cenedlaethol Cymru.

- (a) the expiry of any appeal period; or
- (b) if the practitioner appeals under regulation 15, the FHSAA has disposed of the appeal.

(8) The Local Health Board may extend the period of suspension under paragraph (2) 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 practitioner is suspended under these Regulations that practitioner is to be treated as not being included in the Local Health Board's supplementary list, even though his or her name appears in it.

(10) The Local Health Board may at any time revoke the suspension and inform the practitioner of its decision.

(11) Where a Local Health Board is considering suspending a practitioner or varying the period of suspension under this regulation, it must give the practitioner-

- (a) notice of any allegation against the practitioner;
- (b) notice of what action it is considering and on what grounds;
- (c) the opportunity to put his or her case at an oral hearing before it, on a specified day, provided that at least 24 hours notice of the hearing is given to the practitioner.

(12) If the practitioner does not wish to have an oral hearing or does not attend the oral hearing the Local Health Board may suspend the practitioner with immediate effect.

(13) If an oral hearing does take place, the Local Health Board must take into account any representations made before it reaches its decision.

(14) The Local Health Board may suspend the practitioner with immediate effect following the hearing.

(15) The Local Health Board must notify the practitioner of its decision and the reasons for it (including any facts relied upon) within 7 days of making that decision.

(16) The Local Health Board must notify the practitioner of any right of review under regulation 14.

(17) During a period of suspension payments may be made to or in respect of the practitioner in accordance with a determination by the National Assembly for Wales.

## Adolygiadau

14.-(1) Caiff Bwrdd Iechyd Lleol adolygu ei benderfyniad, ac os caiff gais ysgrifenedig gan yr ymarferydd mae'n rhaid iddo adolygu ei benderfyniad i-

- (a) osod neu amrywio amodau a osodwyd o dan reoliad 8;
- (b) i osod neu amrywio amodau a osodwyd o dan reoliad 12; neu
- (c) i atal yr ymarferydd dros dro o dan reoliad 13(1)(a) neu (b), ac eithrio lle bo atal dros dro yn parhau trwy orchymyn yr FHSAA.

(2) Ni all yr ymarferydd ofyn am adolygiad o benderfyniad y Bwrdd Iechyd Lleol hyd nes bydd cyfnod o dri mis wedi dod i ben gan ddechrau gyda dyddiad ei benderfyniad, neu mewn achos o restru yn amodol o dan reoliad 8, gan ddechrau gyda'r dyddiad y mae'n cynnwys enw'r ymarferydd ar y rhestr atodol.

(3) Ar ôl i adolygiad gael ei gynnal, ni all yr ymarferydd ofyn am adolygiad pellach cyn i chwe mis ddod i ben o ddyddiad y penderfyniad ar yr adolygiad diwethaf.

(4) Os bydd Bwrdd Iechyd Lleol yn penderfynu adolygu ei benderfyniad o dan y rheoliad hwn i restru yn amodol, tynnu enw'n amodol neu atal ymarferydd dros dro, mae'n rhaid iddo roi i'r ymarferydd-

- (a) hysbysiad am unrhyw honiad a wnaed yn erbyn yr ymarferydd;
- (b) hysbysiad am y camau gweithredu y mae'n eu hystyried a'u sail;
- (c) y cyfle i wneud sylwadau ysgrifenedig i'r Bwrdd o fewn 28 o ddiwrnodau o ddyddiad yr hysbysiad o dan is-baragraff (b); ac
- (ch) cyfle i gyflwyno ei achos mewn gwrandawriad llafar o flaen y Bwrdd, os yw'r ymarferydd yn gofyn am hynny o fewn y cyfnod 28 o ddiwrnodau a grybwyllwyd yn is-baragraff (c).

(5) Oni wneir sylwadau o fewn y cyfnod a bennir ym mharagraff (4)(c), rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd o'i benderfyniad, y rhesymau am y penderfyniad (gan gynnwys unrhyw ffeithiau y dibynnir arnynt) ac am unrhyw hawl i apelio o dan reoliad 15.

(6) Os bydd yr ymarferydd yn gwneud sylwadau, rhaid i'r Bwrdd Iechyd Lleol roi ystyriaeth iddynt cyn dod i benderfyniad.

(7) Rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd am-

- (a) ei benderfyniad;
- (b) y rhesymau am y penderfyniad (gan gynnwys unrhyw ffeithiau y dibynnir arnynt);
- (c) unrhyw hawl i apelio o dan reoliad 15; ac

## Reviews

14.-(1) A Local Health Board may, and if requested in writing to do so by the practitioner must, review its decision to-

- (a) impose or vary conditions imposed under regulation 8;
- (b) impose or vary conditions imposed under regulation 12; or
- (c) suspend the practitioner under regulation 13(1)(a) or (b), except where a suspension is continuing by order of the FHSAA.

(2) The practitioner may not request a review of the Local Health Board's decision until the expiry of a three month period beginning with the date of its decision, or in the case of a conditional inclusion under regulation 8, beginning with the date it includes the practitioner's name in the supplementary list.

(3) After a review has taken place, the practitioner cannot request a further review before the expiry of six months from the date of the decision on the last review.

(4) If a Local Health Board decides to review its decision under this regulation to conditionally include, contingently remove or suspend a practitioner, it must give the practitioner-

- (a) notice of any allegation against the practitioner;
- (b) notice of what action it is considering and on what grounds;
- (c) with opportunity to make written representations to it within 28 days of the date of the notification under sub-paragraph (b); and
- (d) the opportunity to put his or her case at an oral hearing before it, if the practitioner so requests within the 28 day period mentioned in sub-paragraph (c).

(5) If there are no representations with the period specified in paragraph (4)(c), the Local Health Board must notify the practitioner of its decision, the reasons for it (including any facts relied upon) and of any right of appeal under regulation 15.

(6) If the practitioner makes representations, the Local Health Board must take them into account before reaching its decision.

(7) The Local Health Board must notify the practitioner of-

- (a) its decision;
- (b) the reasons for it (including any facts relied upon);
- (c) any right of appeal under regulation 15; and

(ch) hawl i adolygiad pellach o dan y rheoliad hwn,

o fewn 7 diwrnod ar ôl gwneud y penderfyniad hwnnw.

(8) Pan fydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd o dan baragraff (7) (c), mae'n rhaid iddo hefyd hysbysu'r ymarferydd bod rhaid iddo, os yw'n dymuno defnyddio ei hawl i apelio, wneud hynny o fewn y cyfnod o 28 o ddiwrnodau gan ddechrau gyda'r dyddiad y rhoddodd hysbysiad o'i benderfyniad a bydd rhaid i'r Bwrdd hefyd roi gwybod i'r ymarferydd sut mae defnyddio unrhyw hawl o'r fath.

(9) Os bydd Bwrdd Iechyd Lleol yn penderfynu adolygu ei benderfyniad i osod amodau o dan reoliad 8, caiff amrywio'r amodau, gosod amodau gwahanol, tynnu'r amodau neu dynnu'r ymarferydd oddi ar ei restr atodol.

(10) Os bydd Bwrdd Iechyd Lleol yn penderfynu adolygu ei benderfyniad i dynnu'n amodol o dan reoliad 12, gall amrywio'r amodau, gosod gwahanol amodau neu dynnu'r ymarferydd oddi ar ei restr atodol.

(11) Os bydd Bwrdd Iechyd Lleol yn penderfynu adolygu ei benderfyniad i atal ymarferydd dros dro o dan reoliad 13(1)(a) neu (b), caiff benderfynu gosod amodau neu dynnu'r ymarferydd oddi ar ei restr atodol.

(12) Ni all Bwrdd Iechyd Lleol adolygu ei benderfyniad i atal ymarferydd dros dro o dan reoliad 13(1)(c) neu (ch).

## Apeliadau

15.-(1) Caiff ymarferydd apelio i'r FHSAA (trwy ofyn iddo ailbenderfynu) yn erbyn penderfyniad gan Fwrdd Iechyd Lleol a grybwyllwyd ym mharagraff (2) trwy hysbysu'r FHSAA.

(2) Penderfyniadau'r Bwrdd Iechyd Lleol sydd dan sylw yw-

- (a) penderfyniad i wrthod mynediad i'r rhestr atodol o dan reoliad 6(1);
- (b) penderfyniad i osod amod arbennig o dan reoliad 8, neu amrywio unrhyw amod neu osod amod gwahanol o dan y rheoliad hwnnw;
- (c) unrhyw benderfyniad ar adolygiad o dan reoliad 14 o gynnwys ymarferydd yn amodol o dan reoliad 8;
- (ch) unrhyw benderfyniad i dynnu'r ymarferydd oddi ar y rhestr o dan reoliadau 8(2), 10(4) neu (7), 12(3)(c) neu 15(6)(b);
- (d) unrhyw benderfyniad i osod amod arbennig o dan reoliad 12(1), neu i amrywio unrhyw amod neu i osod amod gwahanol o dan y rheoliad hwnnw;
- (dd) unrhyw benderfyniad ar adolygiad o dan reoliad 14 i dynnu'r ymarferydd oddi ar y

(d) the right to a further review under this regulation,

within 7 days of making that decision.

(8) When the Local Health Board notifies the practitioner under paragraph (7)(c), it must also inform the practitioner that if he or she wishes to exercise a right of appeal then he or she must do so within the period of 28 days beginning with the date on which it gave notice of its decision and it must also inform the practitioner how to exercise any such right.

(9) If a Local Health Board decides to review its decision to impose conditions under regulation 8, it may vary the conditions, impose different conditions, remove the conditions or remove the practitioner from its supplementary list.

(10) If a Local Health Board decides to review its decision to impose a contingent removal under regulation 12, it may vary the conditions, impose different conditions, or remove the practitioner from its supplementary list.

(11) If a Local Health Board decides to review its decision to suspend a practitioner under regulation 13(1)(a) or (b), it may decide to impose conditions or remove the practitioner from its supplementary list.

(12) A Local Health Board may not review its decision to suspend a practitioner under regulation 13(1)(c) or (d).

## Appeals

15.-(1) A practitioner may appeal (which will be by way of redetermination) to the FHSAA against a decision of a Local Health Board mentioned in paragraph (2) by giving notice to the FHSAA.

(2) The Local Health Board 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 an review under regulation 14 of a conditional inclusion under regulation 8;
- (d) any decision to remove the practitioner under regulations 8(2), 10(4) or (7), 12(3)(c) or 15(6)(b);
- (e) any decision to impose a particular condition under regulation 12(1), or to vary any condition or to impose a different condition that regulation;
- (f) any decision on a review under regulation 14 of a contingent removal under regulation

rhestr yn amodol o dan reoliad 12(1); ac

- (e) unrhyw benderfyniad i drosglwyddo neu symud yr ymarferydd o dan reoliad 21(12).

(3) Ar apêl caiff yr FHSAA wneud unrhyw benderfyniad y gallai'r Bwrdd Iechyd Lleol fod wedi ei wneud.

(4) Pan fydd FHSAA ar apêl yn penderfynu y bydd cynnwys yr ymarferydd sy'n apelio ar y rhestr atodol yn ddarostyngedig i amodau, boed yr amodau hynny yr un fath â'r amodau a osodwyd gan y Bwrdd Iechyd Lleol neu beidio, mae'n rhaid i'r Bwrdd Iechyd Lleol ofyn i'r apelydd ei hysbysu o fewn 28 diwrnod o'r penderfyniad (neu gyfnod hirach yn ôl cytundeb y Bwrdd Iechyd Lleol) os yw'r ymarferydd yn dymuno cael ei gynnwys ar y rhestr atodol yn ddarostyngedig i'r amodau hynny.

(5) Os yw'r ymarferydd yn hysbysu'r Bwrdd Iechyd Lleol ei fod eisiau cael ei gynnwys ar y rhestr atodol yn ddarostyngedig i'r amodau, rhaid i'r Bwrdd Iechyd Lleol gynnwys yr ymarferydd ar y rhestr.

(6) Pan fo'r FHSAA ar apêl yn penderfynu tynnu'r ymarferydd oddi ar y rhestr yn amodol-

- (a) caiff y Bwrdd Iechyd Lleol a'r ymarferydd wneud cais i'r FHSAA i'r amodau a osodwyd ar yr ymarferydd gael eu hamrywio, neu osod gwahanol amodau, neu ddirymu'r penderfyniad i dynnu ei enw'n amodol; a
- (b) caiff y Bwrdd Iechyd Lleol dynnu'r ymarferydd oddi ar ei restr atodol os yw'n penderfynu nad yw'r ymarferydd wedi cydymffurfio ag amod.

### Hysbysiad

16.-(1) Pan fo Bwrdd Iechyd Lleol yn penderfynu-

- (a) gwrthod cynnwys ymarferydd ar ei restr atodol ar y sail a nodwyd yn rheoliad 6;
- (b) gosod amodau ar gynnwys yr ymarferydd ar y rhestr honno o dan reoliad 8;
- (c) tynnu'r ymarferydd oddi ar y rhestr honno o dan reoliad 10;
- (d) tynnu'r ymarferydd oddi ar y rhestr honno yn amodol o dan reoliad 12; neu
- (e) atal yr ymarferydd dros dro o'r rhestr honno o dan reoliad 13,

rhaid i'r Bwrdd Iechyd Lleol hysbysu'r personau neu gyrff a nodir ym mharagraff (2) a rhaid iddo hefyd hysbysu'r rhai sydd wedi eu cynnwys ym mharagraff (3), os gofynnir iddo wneud hynny gan y personau neu gyrff hynny mewn ysgrifen (gan gynnwys ffurf electronig) o'r materion sydd wedi eu nodi ym mharagraff (4).

12(1); and

- (g) any decision to transfer or move the practitioner under regulation 21(12).

(3) On appeal the FHSAA may make any decision which the Local Health Board could have made.

(4) Where the decision of the FHSAA on appeal is that the appellant practitioner's inclusion in the supplementary list is to be subject to conditions, whether or not those conditions are identical to the conditions imposed by the Local Health Board, the Local Health Board must ask the appellant to notify it within 28 days of the decision (or such longer period as the Local Health Board agrees) whether the practitioner wishes to be included in the supplementary list subject to those conditions.

(5) If the practitioner notifies the Local Health Board that he or she does wish to be included in the supplementary list subject to the conditions, it will so include the practitioner.

(6) Where the FHSAA on appeal decides to impose a contingent removal-

- (a) the Local Health Board and the practitioner may each apply to the FHSAA for the conditions imposed on the practitioner to be varied, for different conditions to be imposed, or for the contingent removal to be revoked; and
- (b) the Local Health Board may remove the practitioner from its supplementary list if it determines that he or she has failed to comply with a condition.

### Notification

16.-(1) Where a Local Health Board decides to-

- (a) refuse to admit a practitioner to its supplementary list on the grounds specified in regulation 6;
- (b) impose conditions on the practitioner's inclusion in that list under regulation 8;
- (c) remove the practitioner from that list under regulation 10;
- (d) remove the practitioner from that list contingently under regulation 12; or
- (e) suspend the practitioner from that list under regulation 13,

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

(2) Pan fo paragraff (1) yn gymwys, rhaid i Fwrdd Iechyd Lleol, o fewn 7 diwrnod o'r penderfyniad hwnnw, hysbysu-

- (a) Cynulliad Cenedlaethol Cymru;
- (b) unrhyw Fwrdd Iechyd Lleol neu gorff cyfatebolsydd, yn ôl yr wybodaeth sydd gan y Bwrdd Iechyd Lleol,-
  - (i) wedi cynnwys yr ymarferydd ar ei restr neu restr gyfatebol,
  - (ii) sy'n ystyried cais gan yr ymarferydd i gael ei gynnwys ar unrhyw restr neu restr gyfatebol, neu
  - (iii) y mae ganddo yn ei ardal unrhyw fan pan fo'r ymarferydd yn helpu i ddarparu gwasanaethau offthalmig cyffredinol;
- (c) yr Ysgrifennydd Gwladol;
- (ch) Gweithgor yr Alban;
- (d) Gweithgor Gogledd Iwerddon;
- (dd) y Cyngor Meddygol Cyffredinol, Cyngor Optegol Cyffredinol neu unrhyw gorff rheoleiddio priodol arall;
- (e) yr NPSA; ac
- (f) mewn achos o dwyll, Gwasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol.

(3) Dyma'r personau neu gyrff sydd i'w hysbysu hefyd yn unol â pharagraff (1)-

- (a) personau neu gyrff sy'n gallu dangos-
  - (i) eu bod yn cyflogi'r ymarferydd neu wedi ei gyflogi, yn defnyddio neu wedi defnyddio gwasanaethau'r ymarferydd, neu
  - (ii) eu bod yn ystyried cyflogi neu ddefnyddio gwasanaethau'r ymarferydd mewn swyddogaeth proffesiynol; a
- (b) partneriaeth, y mae unrhyw aelod ohoni'n darparu neu'n helpu i ddarparu gwasanaethau offthalmig cyffredinol, ac sy'n gallu dangos bod yr ymarferydd yn aelod neu wedi bod yn aelod o'r bartneriaeth neu ei bod yn ystyried gwahodd yr ymarferydd i ymaelodi.

(4) Dyma'r materion y cyfeirir atynt ym mharagraff (1)-

- (a) enw, cyfeiriad a dyddiad geni'r ymarferydd;
- (b) rhif cofrestru'r ymarferydd;
- (c) dyddiad a chopi o benderfyniad y Bwrdd Iechyd Lleol; ac
- (ch) enw person y gellir cysylltu ag ef yn y Bwrdd Iechyd Lleol gyda rhagor o ymholiadau.

(5) Rhaid i'r Bwrdd Iechyd Lleol anfon at yr ymarferydd dan sylw gopi o unrhyw wybodaeth amdano y mae wedi ei darparu i'r personau neu'r cyrff a restrir ym mharagraff (2) neu (3), ac unrhyw

(2) Where paragraph (1) applies, a Local Health Board must, within 7 days of that decision, notify-

- (a) the National Assembly for Wales;
- (b) any Local Health Board or equivalent body that, to the knowledge of the notifying Local Health Board-
  - (i) has the practitioner in any list or equivalent list,
  - (ii) is considering an application for inclusion in any list or equivalent list by the practitioner, or
  - (iii) has in its area any place where the practitioner assists in the provision of general ophthalmic services;
- (c) the Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Executive;
- (f) the General Medical Council, General Optical Council or any other appropriate regulatory body;
- (g) the NPSA; and
- (h) where it is a fraud case, the NHS Counter Fraud and Security Management Service.

(3) The persons or bodies to be additionally notified in accordance with paragraph (1) are-

- (a) persons or bodies that can establish that they-
  - (i) are or were employing the practitioner, are using or have used the practitioner's services, or
  - (ii) are considering employing or using the practitioner's services in a professional capacity; and
- (b) a partnership, any of whose members provide or assist in the provision of general ophthalmic services, and can establish that the practitioner is or was a member of the partnership or that it is considering inviting the practitioner to become such a member.

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

- (a) the name, address and date of birth or the practitioner;
- (b) the practitioner's registration number;
- (c) the date and a copy of the decision of the Local Health Board; and
- (d) a contact name of a person in the Local Health Board for further enquiries.

(5) The Local Health Board must send to the practitioner concerned a copy of any information about him or her that it has provided to the persons or bodies listed in paragraph (2) or (3), and any correspondence

ohebiaeth gyda'r person neu'r corff hwnnw mewn perthynas â'r wybodaeth honno.

(6) Pan fo'r Bwrdd Iechyd Lleol wedi hysbysu unrhyw un o'r personau neu gyrff a nodwyd ym mharagraff (2) neu (3) o'r materion a nodir ym mharagraff (4), caiff hefyd, os gofynnir iddo gan y person neu'r corff hwnnw, hysbysu'r person neu'r corff hwnnw o unrhyw dystiolaeth a ystyriwyd, gan gynnwys unrhyw sylwadau gan yr ymarferydd.

(7) Os bydd Bwrdd Iechyd Lleol yn cael ei hysbysu gan yr FHSAA ei fod wedi gosod anghymhwysiad cenedlaethol ar ymarferydd a oedd wedi ei gynnwys neu wedi gwneud cais i gael ei gynnwys ar ei restr atodol, rhaid i'r Bwrdd Iechyd Lleol hysbysu'r personau neu'r gyrff a restrir ym mharagraff (2)(b), (e) a (f) a pharagraff (3).

(8) Os bydd penderfyniad yn cael ei newid ar ôl adolygiad neu apêl, neu pan fydd ataliad dros dro yn dod i ben, rhaid i'r Bwrdd Iechyd Lleol hysbysu'r personau neu'r gyrff a hysbyswyd am y penderfyniad gwreiddiol, o'r penderfyniad diweddaraf neu'r ffaith bod yr ataliad dros dro wedi dod i ben.

#### **Diwygio rhestri atodol neu dynnu enwau yn ôl o restr atodol**

17.-(1) Rhaid i ymarferydd, oni bai ei fod yn anymarferol iddo wneud hynny, roi hysbysiad ysgrifenedig i'r Bwrdd Iechyd Lleol o fewn 28 diwrnod i unrhyw ddigwyddiad sy'n gofyn newid yn yr wybodaeth a gofnodwyd ynglyn â'r ymarferydd ar y rhestr atodol ac am unrhyw newid yn ei gyfeiriad preifat.

(2) Pan fo ymarferydd yn bwriadu tynnu yn ôl o restr atodol, oni bai ei fod yn anymarferol iddo wneud hynny, rhaid i'r ymarferydd roi hysbysiad ysgrifenedig i'r Bwrdd Iechyd Lleol o leiaf dri mis cyn y dyddiad hwnnw.

(3) Rhaid i ymarferydd roi hysbysiad ysgrifenedig i'r Bwrdd Iechyd Lleol ei fod yn bwriadu tynnu yn ôl o'i restr atodol os bydd yr ymarferydd yn cael ei dderbyn ar ei restr offthalmig, neu ar restr offthalmig neu restr atodol Bwrdd Iechyd Lleol arall.

(4) Ar ôl derbyn hysbysiad oddi wrth unrhyw ymarferydd, bydd y Bwrdd Iechyd Lleol-

- (a) yn unol â pharagraff (1), yn diwygio ei restr atodol cyn gynted ag y bo modd;
- (b) yn unol â pharagraff (2), yn diwygio ei restr atodol naill ai-
  - (i) ar y dyddiad sy'n disgyn 3 mis ar ôl dyddiad yr hysbysiad, neu
  - (ii) ar y dyddiad y mae'r Bwrdd Iechyd Lleol wedi cytuno y bydd tynnu enw'r ymarferydd yn ôl o'r rhestr yn cael effaith

with that person or body relating to that information.

(6) Where the Local Health Board 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 of any evidence that was considered, including any representations from the practitioner.

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

(8) Where a decision is changed on review or appeal, or a suspension lapses, the Local Health Board must notify the persons or bodies that were notified of the original decision of the later decision or of the fact that the suspension has lapsed.

#### **Amendment of or withdrawal from supplementary lists**

17.-(1) A practitioner must, unless it is impracticable for him or her to do so, give notice in writing to the Local Health Board within 28 days of any occurrence requiring a change in the information recorded about the practitioner in the supplementary list and of any change in his or her private address.

(2) Where a practitioner intends to withdraw from the supplementary list, unless it is impracticable for him or her to do so, the practitioner must give notice in writing to the Local Health Board at least three months in advance of that date.

(3) A practitioner must give notice in writing to the Local Health Board that he or she intends to withdraw from its supplementary list if the practitioner is accepted on to its ophthalmic list, or on to the ophthalmic list or supplementary list of another Local Health Board.

(4) The Local Health Board will, on receiving notice from any practitioner-

- (a) pursuant to paragraph (1), amend its supplementary list as soon as possible;
- (b) pursuant to paragraph (2), amend its supplementary list either-
  - (i) on the date which falls 3 months after the date of the notice, or
  - (ii) on the date from which the Local Health Board has agreed that the withdrawal will take effect,



pa un bynnag yw'r cynharaf; neu

- (c) yn unol â pharagraff (3), yn tynnu enw'r ymarferydd ar unwaith oddi ar y rhestr.

(5) Caiff ymarferydd dynnu yn ôl hysbysiad a roddwyd yn unol â pharagraff (1) neu (2) ar unrhyw adeg cyn i'r Bwrdd Iechyd Lleol dynnu ei enw oddi ar ei restr atodol.

(6) Ni ellir tynnu yn ôl hysbysiad a roddwyd yn unol â pharagraff (3) unwaith bod yr ymarferydd wedi cael ei dderbyn ar y rhestr arall honno.

### **Cyfyngu ar dynnu enwau yn ôl o restr**

**18.**-(1) Pan fo Bwrdd Iechyd Lleol yn ymchwilio i ymarferydd-

- (a) at bwrpas penderfynu a ddylai ymarfer ei bwerau i dynnu'r ymarferydd oddi ar y rhestr neu beidio o dan reoliad 12; neu
- (b) sydd wedi ei atal dros dro o dan reoliad 13,

ni chaiff yr ymarferydd dynnu yn ôl o unrhyw restr a gedwir gan Fwrdd Iechyd Lleol y mae enw'r ymarferydd wedi ei gynnwys ynddi, ac eithrio lle mae Cynulliad Cenedlaethol Cymru wedi rhoi caniatâd, hyd nes bydd y mater wedi cael ei benderfynu'n derfynol gan y Bwrdd Iechyd Lleol.

(2) Pan fo Bwrdd Iechyd Lleol wedi penderfynu tynnu ymarferydd oddi ar ei restr atodol o dan reoliad 10(4) i (7) neu i dynnu'r ymarferydd yn amodol o'r rhestr o dan reoliad 12, ond nad yw hyd yma wedi gweithredu ei benderfyniad, ni all yr ymarferydd dynnu yn ôl o unrhyw restr a gedwir gan y Bwrdd Iechyd Lleol sy'n ei gynnwys, ac eithrio lle mae Cynulliad Cenedlaethol Cymru wedi rhoi caniatâd.

(3) Pan fo Bwrdd Iechyd Lleol wedi atal ymarferydd dros dro o dan reoliad 13(1)(b), ni all ymarferydd dynnu yn ôl o unrhyw restr a gedwir gan Fwrdd Iechyd Lleol sy'n ei gynnwys, ac eithrio lle mae Cynulliad Cenedlaethol Cymru wedi rhoi caniatâd, hyd nes bydd penderfyniad y llys neu gorff perthnasol yn wybyddus a bod y mater wedi cael ei ystyried a'i benderfynu'n derfynol gan y Bwrdd Iechyd Lleol.

### **Cyfnodau adolygu ar gyfer anghymhwysiad cenedlaethol**

**19.** Y cyfnod ar gyfer adolygu fydd y cyfnod sydd wedi ei nodi isod, yn lle'r hyn sydd wedi ei nodi yn adran 49N(8), lle bo'r amgylchiadau fel a ganlyn-

- (a) wrth wneud penderfyniad i osod anghymhwysiad cenedlaethol, dywed yr FHSAA ei fod o'r farn bod ymddygiad troseddol neu broffesiynol yr ymarferydd yn golygu nad oes unrhyw obaith realistig y bydd adolygiad pellach yn llwyddiannus, os caiff ei gynnal o fewn y cyfnod a nodir yn adran 49N(8)(a), ac os felly mae'r cyfeiriad at "ddwy flynedd" yn yr adran honno yn gyfeiriad at bum mlynedd;

whichever is the earlier; or

- (c) pursuant to paragraph (3), immediately remove the practitioner's name from the list.

(5) A practitioner may withdraw a notice given pursuant to paragraph (1) or (2) at any time before the Local Health Board removes his or her name from its supplementary list.

(6) A notice given pursuant to paragraph (3) may not be withdrawn once the practitioner has been accepted on that other list.

### **Restriction on withdrawal from lists**

**18.**-(1) Where a Local Health Board is investigating a practitioner-

- (a) for the purposes of deciding whether or not to exercise its powers to remove the practitioner under regulation 12; or
- (b) who has been suspended under regulation 13,

the practitioner may not withdraw from any list kept by a Local Health Board in which he or she is included, except where the National Assembly for Wales has given its consent, until the matter has been finally determined by the Local Health Board.

(2) Where a Local Health Board has decided to remove a practitioner from its supplementary list under regulation 10(4) to (7) or to contingently remove the practitioner from it under regulation 12, but has not yet given effect to its decision, the practitioner may not withdraw from any list kept by the Local Health Board in which he or she is included, except where the National Assembly for Wales has given its consent.

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

### **Review periods for national disqualification**

**19.** The period for review will be the period specified below, instead of that set out in section 49N(8), where the circumstances are that-

- (a) 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 practitioner 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), in which case the reference to "two years" in that section is a reference to five years;

- (b) ar adolygiad diwethaf yr FHSAA o anghymhwysiad cenedlaethol nid oedd yr ymarferydd yn llwyddiannus a dywed yr FHSAA ei fod o'r farn nad oes unrhyw obaith realistig y bydd adolygiad pellach yn llwyddiannus os caiff ei gynnal o fewn cyfnod o dair blynedd gan ddechrau gyda dyddiad ei benderfyniad ar yr adolygiad hwnnw, ac os felly mae'r cyfeiriad at "un flynedd" yn adran 49N(8) (b) yn gyfeiriad at dair blynedd;
- (c) dywed yr FHSAA ei fod o'r farn, oherwydd bod collfarn droseddol a ystyriwyd gan y FHSAA wrth ddod i'r penderfyniad y mae ei effaith mewn grym wedi cael ei dileu neu fod y gosb wedi cael ei gostwng ar apêl, bod angen adolygiad ar unwaith, ac os felly mae'r cyfeiriad at "ddwy flynedd" neu "un flynedd" yn adran 49N(8) yn cyfeirio at y cyfnod sydd eisoes wedi mynd heibio; neu
- (ch) mae'r FHSAA o'r farn oherwydd bod penderfyniad corff trwyddedu, rheoleiddio neu arall wedi cael ei ddileu neu bod y gosb wedi cael ei gostwng ar apêl, bod angen adolygiad ar unwaith, os felly mae'r cyfeiriad at "ddwy flynedd" neu "un flynedd" yn adran 49N(8) yn cyfeirio at y cyfnod sydd eisoes wedi mynd heibio.

#### **Datgelu gwybodaeth**

**20.-(1)** Caiff y Bwrdd Iechyd Lleol ddatgelu gwybodaeth a roddwyd iddo neu a gafwyd ganddo yn unol â'r Rheoliadau hyn i unrhyw un o'r canlynol-

- (a) Cynulliad Cenedlaethol Cymru;
- (b) unrhyw Fwrdd Iechyd Lleol arall neu gorff cyfatebol, sydd yn ôl y wybodaeth sydd ganddo-
  - (i) ag ymarferydd ar unrhyw un o'i restrï y mae'r wybodaeth honno yn berthnasol iddo,
  - (ii) yn ystyried cais gan ymarferydd i gael ei gynnwys ar unrhyw un o'i restrï, neu
  - (iii) ag unrhyw fan yn ei ardal lle mae'r ymarferydd yn helpu i ddarparu gwasanaethau offthalmig cyffredinol;
- (c) yr Ysgrifennydd Gwladol;
- (ch) Gweithgor yr Alban;
- (d) Gweithgor Gogledd Iwerddon;
- (dd) y Cyngor Meddygol Cyffredinol, Cyngor Optegol Cyffredinol neu unrhyw gorff trwyddedu neu reoleiddio arall;
- (e) unrhyw gorff neu gyflogwr sydd, yn ôl yr wybodaeth sydd gan y Bwrdd Iechyd Lleol, yn cyflogi neu'n defnyddio gwasanaethau'r ymarferydd, y mae'r wybodaeth yn berthnasol iddo, mewn swyddogaeth proffesiynol;
- (f) unrhyw bartneriaeth, y mae unrhyw un o'i

- (b) on the last review by the FHSAA of a national disqualification the practitioner 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, in which case the reference to "one year" in section 49N(8) (b) is a reference to three years;
- (c) 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 need for an immediate review, in which case the reference to "two years" or "one year" in section 49N(8) is a reference to the period that has already elapsed; or
- (d) 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, in which case the reference to "two years" or "one year" in section 49N(8) is a reference to the period that has already elapsed.

#### **Disclosure of information**

**20.-(1)** The Local Health Board may disclose information supplied to it or acquired by it pursuant to these Regulations to any of the following-

- (a) the National Assembly for Wales;
- (b) any other Local Health Board or equivalent body, which to its knowledge-
  - (i) has a practitioner to whom that information relates in any of its lists,
  - (ii) is considering an application from such a practitioner for inclusion in any of its lists, or
  - (iii) has in its area any place where the practitioner assists in the provision of general ophthalmic services;
- (c) the Secretary of State;
- (d) the Scottish Executive;
- (e) the Northern Ireland Executive;
- (f) the General Medical Council, General Optical Council or any other licensing or regulatory body;
- (g) any organisation or employer that, to the knowledge of the Local Health Board, employs or uses the services of the practitioner, to whom that information relates, in a professional capacity;
- (h) any partnership, any of whose members

haelodau yn darparu neu'n helpu i ddarparu gwasanaethau offthalmig cyffredinol, ac y bo'r ymarferydd, yn ôl y wybodaeth sydd gan y Bwrdd Iechyd Lleol, yn aelod ohoni neu sy'n ystyried gwahodd yr ymarferydd i fod yn aelod; a

- (ff) lle mae cyhuddiad o dwyll yn cael ei ystyried, Gwasanaeth Gwrth-dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol.

(2) Mae'n rhaid i'r Bwrdd Iechyd Lleol ddatgelu i Gynulliad Cenedlaethol Cymru wybodaeth a roddwyd iddo neu a gafwyd ganddo yn unol â'r Rheoliadau hyn, a bydd y Cynulliad yn gofyn am y wybodaeth honno o dro i dro.

### Darpariaethau Trosiannol

**21.**-(1) Caiff unrhyw ymarferydd, sydd heb ei gynnwys ar restr offthalmig, ond a oedd yn helpu i ddarparu gwasanaethau offthalmig cyffredinol ar 31 Ionawr 2006 barhau i wneud hynny, er gwaethaf rheoliad 3(3), tan-

- (a) 1 Awst 2006; neu  
(b) y dyddiad y mae'r Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd o'i benderfyniad o dan reoliad 6(6),

pa un bynnag yw'r cynharaf, cyn belled â bod yr ymarferydd, yn unol â'r Rheoliadau hyn, yn gwneud cais i Fwrdd Iechyd Lleol am gael ei gynnwys ar ei restr atodol ddim hwyrach na 1 Mai 2006.

(2) Caiff unrhyw ymarferydd sydd ddim yn disgyn o fewn paragraff (1) sydd wedi gwneud cais i gael ei gynnwys ar restr atodol ar neu cyn 1 Mai 2006, helpu i ddarparu gwasanaethau ophthalmig cyffredinol ar ôl dyddiad y cais, er gwaethaf rheoliad 3(3), tan-

- (a) 1 Awst 2006; neu  
(b) y dyddiad y mae'r Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd o'r penderfyniad

pa un bynnag yw'r cynharaf.

(3) Rhaid i unrhyw ymarferydd y mae paragraff (1) neu (2) yn berthnasol iddo gydymffurfio â rheoliad 9, os bydd unrhyw un o'r digwyddiadau a nodir yn digwydd, yn union fel pe bai wedi ei gynnwys ar restr atodol y Bwrdd Iechyd Lleol y mae'r ymarferydd yn helpu i ddarparu gwasanaethau offthalmig cyffredinol yn ei ardal.

(4) Ni chaiff ymarferydd helpu i ddarparu gwasanaethau offthalmig cyffredinol yn rhinwedd paragraff (1) neu (2) yn ystod unrhyw gyfnod y bo'r ymarferydd yn destun hysbysiad atal dros dro a roddwyd gan Fwrdd Iechyd Lleol o dan baragraff (5).

(5) Caiff Bwrdd Iechyd Lleol roi hysbysiad atal dros dro i ymarferydd y bo paragraff (1) neu (2) yn berthnasol iddo lle bo wedi ei fodloni bod rhaid gwneud hynny i ddiogelu'r cyhoedd neu pan fydd

provide or assist in the provision of general ophthalmic services and of which, to the knowledge of the Local Health Board, the practitioner is a member or that is considering inviting the practitioner to become a member; and

- (i) where an allegation of fraud is being considered, the NHS Counter Fraud and Security Management Service.

(2) The Local Health Board must disclose to the National Assembly for Wales information supplied to it or acquired by it pursuant to these Regulations, as it may from time to time request.

### Transitional provisions

**21.**-(1) Any practitioner, who is not included in an ophthalmic list, but was assisting in the provision of general ophthalmic services on 31 January 2006 may continue to do so, notwithstanding regulation 3(3), until-

- (a) 1 August 2006; or  
(b) the date on which the Local Health Board notifies the practitioner of its decision under regulation 6(6),

whichever is the earlier, provided that the practitioner applies, in accordance with these Regulations, to a Local Health Board to be included in its supplementary list not later than 1 May 2006.

(2) Any practitioner not falling within paragraph (1) who has applied to be included in a supplementary list on or before 1 May 2006, may assist in the provision of general ophthalmic services after the date of that application, notwithstanding regulation 3(3), until-

- (a) 1 August 2006; or  
(b) the date on which the Local Health Board notifies the practitioner of its decision

whichever is the earlier.

(3) Any practitioner to whom paragraph (1) or (2) applies must comply with regulation 9, if any of the events specified occur, as though he or she were included in the supplementary list of the Local Health Board in whose locality the practitioner is assisting in the provision of general ophthalmic services.

(4) An practitioner may not assist in the provision of general ophthalmic services by virtue of paragraph (1) or (2) during any period in which he or she is the subject of a suspension notice given by a Local Health Board under paragraph (5).

(5) A Local Health Board may give a suspension notice to a practitioner to whom paragraph (1) or (2) applies where it is satisfied that it is necessary to do so for the protection of members of the public or is

hynny er lles y cyhoedd mewn rhyw ffordd arall.

(6) Caiff Bwrdd Iechyd Lleol dynnu yn ôl hysbysiad atal dros dro y mae wedi ei roi o dan baragraff (5) ar unrhyw adeg.

(7) Yn ystod cyfnod atal dros dro gellir gwneud taliadau i ymarferydd neu mewn perthynas â'r ymarferydd gan y Bwrdd Iechyd Lleol yn unol â phenderfyniad Cynulliad Cenedlaethol Cymru.

(8) Lle bo Bwrdd Iechyd Lleol-

- (a) wedi derbyn cais oddi wrth ymarferydd y mae paragraff (1) neu (2) yn berthnasol iddo; ac
- (b) yn dod i wybod mewn perthynas â'r ymarferydd am unrhyw un o'r materion a restrir yn rheoliad 10(1),

mae'n rhaid iddo benderfynu ar unwaith gais yr ymarferydd hwnnw i gael ei gynnwys ar ei restr atodol.

(9) Caiff Bwrdd Iechyd Lleol gyhoeddi rhestr o'r ymarferwyr y mae eu ceisiadau wedi cael eu cymeradwyo i gael eu cynnwys ar ei restr atodol cyn 1 Awst 2006.

(10) Os yw'n ymddangos i'r Bwrdd Iechyd Lleol, ar neu ar ôl 1 Chwefror 2006, yn achos unrhyw ymarferydd y mae ei enw wedi ei gynnwys ar ei restr offthalmig ar 31 Ionawr 2006-

- (a) nad oedd yn gymwys i enw'r ymarferydd hwnnw fod wedi'i gynnwys ar ei restr offthalmig; ond
- (b) y byddai'n gymwys i enw'r ymarferydd hwnnw, os byddai'n gwneud cais i hynny ddigwydd gael ei gynnwys yn ei restr atodol,

rhaid i Fwrdd Iechyd Lleol gymryd y camau a bennir ym mharagraff (11).

(11) Rhaid i'r Bwrdd Iechyd Lleol-

- (a) roi hysbysiad i'r ymarferydd i'r perwyl hwnnw, ynghyd â'r cyfle i wneud sylwadau ysgrifenedig iddo o fewn 28 diwrnod o ddyddiad yr hysbysiad; ac
- (b) ymgynghori ag unrhyw Fwrdd Iechyd Lleol arall y mae'r ymarferydd, yn ôl yr wybodaeth sydd gan y Bwrdd, wedi ei gynnwys ar ei restr offthalmig.

(12) Ar ôl ystyried unrhyw sylwadau o dan baragraff (11)(b), os yw'r Bwrdd Iechyd Lleol yn fodlon nad yw'r ymarferydd yn bodloni'r gofynion i gael ei gynnwys ar ei restr offthalmig, mae'n rhaid iddo-

- (a) dynnu enw'r ymarferydd oddi ar ei restr offthalmig; ac
- (b) oni bai bod enw'r ymarferydd wedi ei gynnwys ar y rhestr offthalmig neu restr atodol Bwrdd Iechyd Lleol arall, gynnwys ei enw ar ei restr atodol.

otherwise in the public interest.

(6) A Local Health Board may withdraw a suspension notice it has given under paragraph (5) at any time.

(7) During a period of suspension payments may be made to or in respect of the practitioner by the Local Health Board in accordance with a determination by the National Assembly for Wales.

(8) Where a Local Health Board-

- (a) has received an application from a practitioner to whom paragraph (1) or (2) applies; and
- (b) becomes aware in respect of the practitioner of any of the matters listed in regulation 10(1),

it must immediately decide that practitioner's application to be included in its supplementary list.

(9) A Local Health Board may publish a list of the practitioners whose applications it has approved for inclusion in its supplementary list prior to 1 August 2006.

(10) If, on or after 1 February 2006, it appears to the Local Health Board that any practitioner whose name was included in its ophthalmic list on 31 January 2006-

- (a) is not entitled to have his or her name in its ophthalmic list; but
- (b) would be, if the practitioner so applied, entitled to have his or her name included in its supplementary list,

it must take the action specified in paragraph (11).

(11) The Local Health Board must-

- (a) give the practitioner notice to that effect, together with the opportunity to make written representations to it within 28 days of the date of that notification; and
- (b) consult any other Local Health Board in whose ophthalmic list the practitioner is, to its knowledge, included.

(12) After considering any representations under paragraph (11)(b), if the Local Health Board is satisfied that the practitioner does not meet the requirements for inclusion in its ophthalmic list, it must-

- (a) remove the practitioner's name from its ophthalmic list; and
- (b) unless the practitioner's name is included in the ophthalmic list or the supplementary list of another Local Health Board, include his or her name in its supplementary list.

(13) Mewn achos lle mae paragraff (12) yn berthnasol, rhaid i'r Bwrdd Iechyd Lleol hysbysu'r ymarferydd o'i benderfyniad a'r rhesymau amdano (gan gynnwys unrhyw ffeithiau y dibynnwyd arnynt) o fewn 7 diwrnod o wneud y penderfyniad hwnnw.

(14) Pan fydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd o'i benderfyniad o dan baragraff (13), mae'n rhaid iddo hefyd roi gwybod i'r ymarferydd, os bydd eisiau ymarfer ei hawl i apelio, y bydd rhaid iddo wneud hynny o fewn y cyfnod 28 diwrnod gan ddechrau gyda'r dyddiad y rhoddodd hysbysiad i'r ymarferydd o'i benderfyniad ac mae'n rhaid i'r Bwrdd hefyd ddweud wrth yr ymarferydd sut i ddefnyddio unrhyw hawl o'r fath.

(15) Pan fydd y Bwrdd Iechyd Lleol yn hysbysu'r ymarferydd o'i benderfyniad yn unol â pharagraff (13) mae'n rhaid iddo hefyd hysbysu unrhyw Fwrdd Iechyd Lleol yr ymgynghorodd ag ef yn unol â pharagraff (11)(b).

(16) Rhaid i'r Bwrdd Iechyd Lleol weithredu o dan baragraffau (10) i (12), er mwyn ei alluogi i wneud penderfyniad o dan baragraff (12), cyn gynted ag y bo hynny'n rhesymol ymarferol.

(17) Mewn unrhyw achos lle bo Bwrdd Iechyd Lleol-

- (a) ar neu cyn 31 Ionawr 2006, wedi derbyn cais gan ymarferydd i gael ei gynnwys ar ei restr offthalmig;
- (b) heb benderfynu'r cais hwnnw cyn y dyddiad hwnnw; ac
- (c) yn ystyried nad yw'n briodol i gynnwys yr ymarferydd sy'n gwneud cais ar ei restr offthalmig, ond y gall fod yn briodol cynnwys yr ymarferydd ar ei restr atodol,

mae'n rhaid iddo drin y cais hwnnw fel cais i gael ei gynnwys ar ei restr atodol.

(13) In a case to which paragraph (12) applies, the Local Health Board must notify the practitioner of its decision and the reasons for it (including any facts relied up) with 7 days of making that decision.

(14) When the Local Health Board notifies the practitioner of its decision under paragraph (13), it must also advise the practitioner that if he or she wishes to exercise a right of appeal then he or she must do so with the period of 28 days beginning with the date on which it gave the practitioner the notice of its decision and it must also tell the practitioner how to exercise any such right.

(15) When the Local Health Board notifies the practitioner of its decision in accordance with paragraph (13) it must also notify any Local Health Board which it consulted pursuant to paragraph (11)(b).

(16) The Local Health Board must act under paragraphs (10) to (12), so as to enable it to take a decision under paragraph (12), as soon as is reasonably practical.

(17) In any case where a Local Health Board-

- (a) received, on or before 31 January 2006, an application for inclusion in its ophthalmic list;
- (b) has not determined that application before that date; and
- (c) considers that it is not appropriate to include the applicant practitioner in its ophthalmic list, but that it may be appropriate to include the practitioner in its supplementary list,

it must treat that application as an application for inclusion in its supplementary list.

## RHAN 2

### Diwygiadau i'r Rheoliadau Offthalmig

#### Dehongliad

**22.** Yn y Rhan hon ystyr "Rheoliadau Offthalmig" ("*the Ophthalmic Regulations*") yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Gwasanaethau Offthalmig Cyffredinol) 1986(1).

#### Diwygio rheoliad 2

**23.**-(1) Diwygir Rheoliad 2 o'r Rheoliadau Offthalmig (dehongli) yn unol â darpariaethau canlynol y rheoliad hwn.

## PART 2

### Amendments to the Ophthalmic Regulations

#### Interpretation

**22.** In this Part "the Ophthalmic Regulations" ("*Rheoliadau Offthalmig*") means the National Health Service (General Ophthalmic Services) Regulations 1986(1).

#### Amendment of regulation 2

**23.**-(1) Regulation 2 of the Ophthalmic Regulations (interpretation) is amended in accordance with the following provisions of this regulation.

(1) O.S.1986/975

(1) S.I.1986/975

(2) Ym mharagraff (1)-

- (a) yn lle diffiniadau o "deputy", "equivalent body", "licensing or regulatory body", "mobile practice" ac "suspended" rhodder yn eu trefn-

""deputy" ("*dirpwy*") means an ophthalmic medical practitioner or an optician, who is included in an ophthalmic list or a supplementary list and assists in the provision of general ophthalmic services;"

""equivalent body" ("*corff cyfatebol*") means-

- (a) a Primary Care Trust in England;
- (b) a Health Board or NHS Trust in Scotland;
- (c) a Health and Social Services Board in Northern Ireland; or
- (d) in relation to any time prior to 1 April 2003, a Health Authority in Wales; or
- (e) in relation to any time prior to 1 October 2002, a Health Authority in England;"

""licensing or regulatory body" ("*corff trwyddedu neu roleiddio*") means-

- (a) a body that licenses or regulates any profession of which the ophthalmic medical practitioner or optician is or has been a member, include a body regulating or licensing the education, training or qualifications of that profession; and
- (b) includes any body which licenses or regulates any such profession, its education or qualifications, outside the United Kingdom;"

""mobile practice" ("*practis symudol*") means a contractor who-

- (a) has made arrangements with the Local Health Board to provide mobile services; and
- (b) does not have premises in the locality;" and

""suspended" ("*atal dros dro*") means suspended-

- (a) in relation to England and Wales, by a Local Health Board or equivalent body under section 49I or 49J of the Act or under Regulations made under-
  - (i) sections 28DA or 43D of the Act, or
  - (ii) section 8ZA of the National Health Service (Primary Care) Act 1997(1),

including these Regulations;

- (b) in relation to Scotland or Northern Ireland, under provision in force corresponding to those in or made under sections 28DA, 43D, 49I or 49J of the Act or under section 8ZA of the National Health Service (Primary Care) Act 1997,

and will be treated as including a case where a person is treated as suspended by a Local Health Board or, prior to 1 April 2003, by a Health Authority, by virtue

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(1) 1997 c.46

(2) In paragraph (1)-

- (a) for the definitions of "deputy", "equivalent body", "licensing or regulatory body", "mobile practice" and "suspended" substitute respectively-

""deputy" ("*dirpwy*") means an ophthalmic medical practitioner or an optician, who is included in an ophthalmic list or a supplementary list and assists in the provision of general ophthalmic services;"

""equivalent body" ("*corff cyfatebol*") means-

- (a) a Primary Care Trust in England;
- (b) a Health Board or NHS Trust in Scotland;
- (c) a Health and Social Services Board in Northern Ireland; or
- (d) in relation to any time prior to 1 April 2003, a Health Authority in Wales; or
- (e) in relation to any time prior to 1 October 2002, a Health Authority in England;"

""licensing or regulatory body" ("*corff trwyddedu neu roleiddio*") means-

- (a) a body that licenses or regulates any profession of which the ophthalmic medical practitioner or optician is or has been a member, including a body regulating or licensing the education, training or qualifications of that profession; and
- (b) includes any body which licenses or regulates any such profession, its education or qualifications, outside the United Kingdom;"

""mobile practice" ("*practis symudol*") means a contractor who-

- (a) has made arrangements with the Local Health Board to provide mobile services; and
- (b) does not have premises in the locality;" and

""suspended" ("*atal dros dro*") means suspended-

- (a) in relation to England and Wales, by a Local Health Board or equivalent body under section 49I or 49J of the Act or under Regulations made under-
  - (i) sections 28DA or 43D of the Act, or
  - (ii) section 8ZA of the National Health Service (Primary Care) Act 1997(1),

including these Regulations;

- (b) in relation to Scotland or Northern Ireland, under provision in force corresponding to those in or made under sections 28DA, 43D, 49I or 49J of the Act or under section 8ZA of the National Health Service (Primary Care) Act 1997,

and will be treated as including a case where a person is treated as suspended by a Local Health Board or, prior to 1 April 2003, by a Health Authority, by virtue

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(1) 1997 c.46

of regulation 6(2) of the Abolition of the Tribunal (Wales) Regulations, or in England, by a Primary Care Trust, or prior to 1 October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, and "suspends" and "suspension" will be construed accordingly;"

(b) mewnosoder y diffiniadau canlynol yn y lle priodol yn ôl trefn yr wyddor-

""corporate optician" ("*optegydd corfforaethol*") means an optician which is a body corporate carrying on business as an optician;"

""mobile services" ("*gwasanaethau symudol*") means general ophthalmic services provided at-

- (a) a day centre;
- (b) a residential centre; or
- (c) the patient's home, where the patient is unable to leave it unaccompanied because of physical or mental illness or disability,

which a contractor has made arrangements with a Local Health Board to provide in its locality;"

""the NCAA" means the National Clinical Assessment Authority;"

""the NHS Counter Fraud Security and Management Service" ("*Gwasanaeth Gwrth Dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol*") means the service with responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service, established by the Counter Fraud and Security Management Service Establishment and Constitution Order 2002;"

""notice" ("*hysbysiad*") means a notice in writing (including electronic) and "notify" is to be construed accordingly;"

""ophthalmic list" ("*rhestr offthalmig*") means the list prepared by a Local Health Board under regulation 6;"

""the register" ("*y gofrestr*"), except where the context otherwise requires, means, in relation to an ophthalmic medical practitioner, a register maintained by the General Medical Council, or in relation to an optician, a register or list maintained by the General Optical Council;"

""supplementary list" ("*rhestr atodol*") means the list prepared by the Local Health Board under regulation 3 of the Supplementary List Regulations;" and

""Supplementary List Regulations" ("*Rheoliadau Rhestr Atodol*") means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services )(Amendment and Consequential Amendment) (Wales) Regulations 2006;"

of regulation 6(2) of the Abolition of the Tribunal (Wales) Regulations, or in England, by a Primary Care Trust, or prior to 1 October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, and "suspends" and "suspension" will be construed accordingly;"

(b) insert the following definitions in the appropriate place in the alphabetical order-

""corporate optician" ("*optegydd corfforaethol*") means an optician which is a body corporate carrying on business as an optician;"

""mobile services" ("*gwasanaethau symudol*") means general ophthalmic services provided at-

- (a) a day centre;
- (b) a residential centre; or
- (c) the patient's home, where the patient is unable to leave it unaccompanied because of physical or mental illness or disability,

which a contractor has made arrangements with a Local Health Board to provide in its locality;"

""the NCAA" means the National Clinical Assessment Authority;"

""the NHS Counter Fraud Security and Management Service" ("*Gwasanaeth Gwrth Dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol*") means the service with responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service, established by the Counter Fraud and Security Management Service Establishment and Constitution Order 2002;"

""notice" ("*hysbysiad*") means a notice in writing (including electronic) and "notify" is to be construed accordingly;"

""ophthalmic list" ("*rhestr offthalmig*") means the list prepared by a Local Health Board under regulation 6;"

""the register" ("*y gofrestr*"), except where the context otherwise requires, means, in relation to an ophthalmic medical practitioner, a register maintained by the General Medical Council, or in relation to an optician, a register or list maintained by the General Optical Council;"

""supplementary list" ("*rhestr atodol*") means the list prepared by the Local Health Board under regulation 3 of the Supplementary List Regulations;" and

""Supplementary List Regulations" ("*Rheoliadau Rhestr Atodol*") means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services )(Amendment and Consequential Amendment) (Wales) Regulations 2006;"

(c) hegporer y diffiniad o "the National Health Service Counter Fraud Service".

(3) Ar ôl paragraff (3) mewnosoder y paragraff canlynol-

"(4) In these Regulations any reference to "he" or "she", "him" or "her" or "his" or "her", when referring to an optician includes a reference to a corporate optician."

### Diwygio rheoliad 6

24.- (1) Diwygir rheoliad 6 o'r Rheoliadau Offthalmig (rhestr offthalmig) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (1), ar ôl y geiriau "shall keep" mewnosoder "and publish".

(3) Ym mharagraff (3)-

(a) ar ddiwedd is-baragraff (a) ychwaneger-

" and in relation to each person-

(i) the person's professional registration number with-

(aa) suffixed to that number, the organisational code given by the National Assembly for Wales to the Local Health Board, and

(bb) prefixed to that number, the initials OL,

(ii) in the case of an individual, where consent is given, that person's date of birth or where consent is not given or in the case of a corporate optician, the date of that it's first registration in the register, and

(iii) the date that the person's name was included in the ophthalmic list;"

(b) rhodder yr is-baragraff canlynol yn lle is-baragraff (b)-

"(b) except in the case of a mobile practice, the addresses of any places in the Local Health Board's locality at which they have undertaken to provide general ophthalmic services, other than mobile services;"

(c) yn is-baragraff (c) dileer y geiriau o "or in the case of" at ddiwedd yr is-baragraff;

(ch) yn is-baragraff (d)-

(i) ar ôl "or employee", mewnosoder "in assisting", ac

(ii) ar ddiwedd yr is-baragraff, ychwaneger "or in the provision of mobile services"; ac

(d) ar ddiwedd y paragraff, ychwaneger yr is-baragraff canlynol-

"(e) if the contractor has made arrangements with the Local Health Board to provide mobile services-

(c) omit the definition of "the National Health Service Counter Fraud Service".

(3) After paragraph (3) insert the following paragraph-

"(4) In these Regulations any reference to "he" or "she", "him" or "her" or "his" or "her", when referring to an optician includes a reference to a corporate optician.

### Amendment of regulation 6

24.- (1) Regulation 6 of the Ophthalmic Regulations (ophthalmic list) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the words "shall keep" insert "and publish".

(3) In paragraph (3)-

(a) at the end of sub-paragraph (a) add-

" and in relation to each person-

(i) the person's professional registration number with-

(aa) suffixed to that number, the organisational code given by the National Assembly for Wales to the Local Health Board, and

(bb) prefixed to that number, the initials OL,

(ii) in the case of an individual, where consent is given, that person's date of birth or where consent is not given or in the case of a corporate optician, the date of that it's first registration in the register, and

(iii) the date that the person's name was included in the ophthalmic list;"

(b) substitute the following sub-paragraph for sub-paragraph (b)-

"(b) except in the case of a mobile practice, the addresses of any places in the Local Health Board's locality at which they have undertaken to provide general ophthalmic services, other than mobile services;"

(c) in sub-paragraph (c) delete the words from "or in the case of" to the end of the sub-paragraph;

(d) in sub-paragraph (d)-

(i) after "or employee" , insert "in assisting", and

(ii) at the end of the sub-paragraph, add "or in the provision of mobile services"; and

(e) at the end of the paragraph, add the following sub-paragraph-

"(e) if the contractor has made arrangements with the Local Health Board to provide mobile services-



- (i) that fact,
- (ii) the addresses of any day or residential centres visited regularly, with particulars of the months in which visits are planned to take place and the planned interval between such visits, and
- (iii) if that contractor is a mobile practice, that fact and the addresses to which correspondence in connection with such provision may be sent."

### Diwygio rheoliad 7

25.-(1) Diwygir Rheoliad 7 o'r Rheoliadau Offthalmig (cais am gael ei gynnwys ar y rhestr offthalmig a'r hysbysiad) yn unol â darpariaeth ganlynol y rheoliad hwn.

(2) Ym mharagraff (1)-

- (a) yn lle "body corporate carrying on business as ophthalmic opticians" rhodder "corporate optician"; ac
- (b) ar ôl is-baragraff (a) mewnosoder yr is-baragraff canlynol-
  - "(aa) if the applicant wishes to provide mobile services, a statement to that effect, with an undertaking to provide mobile services and to comply with the terms of service relevant to the provision of mobile services;"

(2) Ar ôl paragraff (1) mewnosoder y paragraffau canlynol-

"(1A) In the case of an application to a Local Health Board by an ophthalmic medical practitioner or optician who is included in the supplementary list of that Local Health Board, seeking to withdraw from that list and to include his or her name in its ophthalmic list, he or she will only be required to provide any information and undertakings required by paragraph (1) and Schedule 1A insofar as-

- (a) he or she has not already supplied it to that Local Health Board; or
- (b) it has changed since it was provided.

(1B) Before making a decision on the application of the ophthalmic medical practitioner or optician, the Local Health Board must-

- (a) check, as far as reasonably practicable, the information provided by the ophthalmic medical practitioner or optician, in particular that provided under Schedule 1A, and must ensure that it has sight of relevant documents;
- (b) check with the NHS Counter Fraud and Security Management Service whether the applicant has any record of fraud;

- (i) that fact,
- (ii) the addresses of any day or residential centres visited regularly, with particulars of the months in which visits are planned to take place and the planned interval between such visits, and
- (iii) if that contractor is a mobile practice, that fact and the addresses to which correspondence in connection with such provision may be sent."

### Amendment of regulation 7

25.-(1) Regulation 7 of the Ophthalmic Regulations (application for inclusion in ophthalmic list and notification) is amended in accordance with the following provision of this regulation.

(2) In paragraph (1)-

- (a) for "body corporate carrying on business as ophthalmic opticians" substitute "corporate optician"; and
- (b) after sub-paragraph (a) insert the following sub-paragraph-
  - "(aa) if the applicant wishes to provide mobile services, a statement to that effect, with an undertaking to provide mobile services and to comply with the terms of service relevant to the provision of mobile services;"

(3) After paragraph (1) insert the following paragraphs-

" (1A) In the case of an application to a Local Health Board by an ophthalmic medical practitioner or optician who is included in the supplementary list of that Local Health Board, seeking to withdraw from that list and to include his or her name in its ophthalmic list, he or she will only be required to provide any information and undertakings required by paragraph (1) and Schedule 1A insofar as-

- (a) he or she has not already supplied it to that Local Health Board; or
- (b) it has changed since it was provided.

(1B) Before making a decision on the application of the ophthalmic medical practitioner or optician, the Local Health Board must-

- (a) check, as far as reasonably practicable, the information provided by the ophthalmic medical practitioner or optician, in particular that provided under Schedule 1A, and must ensure that it has sight of relevant documents;
- (b) check with the NHS Counter Fraud and Security Management Service whether the applicant has any record of fraud;

- (c) check with the National Assembly for Wales as to any information held by it as to any record about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (d) take up the references provided by the ophthalmic medical practitioner or optician under paragraph 9 of Schedule 1A.

(1C) When the Local Health Board has decided whether or not to include the applicant ophthalmic medical practitioner or optician in its list, it must notify him or her within 7 days of that decision of-

- (a) that decision; and
- (b) if the Local Health Board has decided not to include the ophthalmic medical practitioner or optician, the reasons for it (including any facts relied upon) and of any right of appeal under regulation 7C against that decision."

#### Diwygio rheoliad 7A

26.-(1) Diwygir Rheoliad 7A o'r Rheoliadau Offthalmig (sail am wrthod) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (1)-

- (a) ar ôl "may refuse to include an ophthalmic medical practitioner or optician" mewnosoder y geiriau "in its list or to list him or her as providing mobile services";
- (b) yn is-baragraff (a) dileë'r y geiriau "paragraph 7 of";
- (c) yn is-baragraff (b) dileë'r y geiriau "paragraphs 5 and 6 of";
- (ch) rhodder yr is-baragraff canlynol yn lle is-baragraff (d)-  
 "(d)that having checked with the NHS Counter Fraud and Security Management Service for any facts that it considers relevant relating to past or current fraud investigations involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession relating to fraud involving or relating to him or her, the Local Health Board considers these justify such refusal;"; ac
- (d) ar ôl is-baragraff (e) ychwaneger-  
 "or
- (f) that, having checked with the National Assembly for Wales for any facts that it considers relevant relating to past or

- (c) check with the National Assembly for Wales as to any information held by it as to any record about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (d) take up the references provided by the ophthalmic medical practitioner or optician under paragraph 9 of Schedule 1A.

(1C) When the Local Health Board has decided whether or not to include the applicant ophthalmic medical practitioner or optician in its list, it must notify him or her within 7 days of that decision of-

- (a) that decision; and
- (b) if the Local Health Board has decided not to include the ophthalmic medical practitioner or optician, the reasons for it (including any facts relied upon) and of any right of appeal under regulation 7C against that decision."

#### Amendment of regulation 7A

26.-(1) Regulation 7A of the Ophthalmic Regulations (grounds for refusal) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)-

- (a) after "may refuse to include an ophthalmic medical practitioner or optician" insert the words "in its list or to list him or her as providing mobile services";
- (b) in sub-paragraph (a) delete the words "paragraph 7 of";
- (c) in sub-paragraph (b) delete the words "paragraphs 5 and 6 of";
- (d) substitute the following sub-paragraph for sub-paragraph (d)-  
 "(d)that having checked with the NHS Counter Fraud and Security Management Service for any facts that it considers relevant relating to past or current fraud investigations involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession relating to fraud involving or relating to him or her, the Local Health Board considers these justify such refusal;"; and
- (e) after sub-paragraph (e) add-  
 "or
- (f) that, having checked with the National Assembly for Wales for any facts that it considers relevant relating to past or

current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession involving or relating to him or her, the Local Health Board considers these justify such refusal."

(3) Ym mharagraff (2) ar ôl is-baragraff (e) ychwaneger yr is-baragraffau canlynol-

- "(f) where he or she has not provided satisfactory evidence of his or her intention to provide general ophthalmic services in its locality;
- (g) except in the case of a corporate optician, where it is not satisfied that he or she has the knowledge of English which, in his or her own interests of those of his or her patients, is necessary for the provision of general ophthalmic services in its locality; or
- (h) where the ophthalmic medical practitioner or optician has had his or her name in the supplementary list of any Local Health Board."

(4) Ym mharagraff (3)-

- (a) ar ddiwedd is-baragraff (f), ychwaneger "or, if it had been committed in England and Wales, would have applied"; a
- (b) ar ôl is-baragraff (h) ychwaneger yr is-baragraffau canlynol-
  - "(i) whether he or she 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 reasons relating to the matter which led to the suspension and the reasons given by the Local Health Board or equivalent body for the suspension;
  - (j) where it is a corporate optician, whether any of its directors, or anyone who has in the preceding six months been one of its directors, was refused admittance to, conditionally included in, removed or contingently removed from or suspended from any list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.";

(5) Hepgorer paragraff (5).

current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession involving or relating to him or her, the Local Health Board considers these justify such refusal."

(3) In paragraph (2) after sub-paragraph (e) add the following sub-paragraphs-

- "(f) where he or she has not provided satisfactory evidence of his or her intention to provide general ophthalmic services in its locality;
- (g) except in the case of a corporate optician, where it is not satisfied that he or she has the knowledge of English which, in his or her own interests of those of his or her patients, is necessary for the provision of general ophthalmic services in its locality; or
- (h) where the ophthalmic medical practitioner or optician has had his or her name in the supplementary list of any Local Health Board."

(4) In paragraph (3)-

- (a) at the end of sub-paragraph (f), add "or, if it had been committed in England and Wales, would have applied"; and
- (b) after sub-paragraph (h) add the following sub-paragraphs-
  - "(i) whether he or she 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 reasons relating to the matter which led to the suspension and the reasons given by the Local Health Board or equivalent body for the suspension;
  - (j) where it is a corporate optician, whether any of its directors, or anyone who has in the preceding six months been one of its directors, was refused admittance to, conditionally included in, removed or contingently removed from or suspended from any list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.";

(5) Omit paragraph (5).

## Diwygio rheoliad 7B

27. Diwygir rheoliad 7B(1) o'r Rheoliadau Offthalmig (gohirio penderfyniadau) fel a ganlyn-

- (a) yn lle is-baragraffau (a) a (b) rhodder yr is-baragraffau canlynol yn eu lle-

- " (a) where there are in respect of him or her-
- (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 the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

- (b) where there are, in respect of a body corporate of which he or she is, has in the preceding six months been, or was at the time of the originating events, a director-
- (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 the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

- (bb) in the case of a corporate optician, where there are in respect of any of its directors-
- (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 that body's removal from its ophthalmic list, if it were to be included in it;"

- (b) yn lle is-baragraff (h) rhodder yr is-baragraff canlynol-

- "(h) where the ophthalmic medical practitioner or optician is being investigated by the NHS Counter Fraud and Security Management Service in relation to any fraud, and the result, if adverse, would be likely to lead to his or her removal from the Local Health Board's ophthalmic list, if he or she were to be included in it;" ac

## Amendment of regulation 7B

27. Regulation 7B(1) of the Ophthalmic Regulations (deferment of decisions) is amended as follows-

- (a) for sub-paragraphs (a) and (b) substitute the following sub-paragraphs-

- " (a) where there are in respect of him or her-
- (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 the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

- (b) where there are, in respect of a body corporate of which he or she is, has in the preceding six months been, or was at the time of the originating events, a director-
- (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 the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

- (bb) in the case of a corporate optician, where there are in respect of any of its directors-
- (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 that body's removal from its ophthalmic list, if it were to be included in it;"

- (b) for sub-paragraph (h) substitute the following sub-paragraph-

- "(h) where the ophthalmic medical practitioner or optician is being investigated by the NHS Counter Fraud and Security Management Service in relation to any fraud, and the result, if adverse, would be likely to lead to his or her removal from the Local Health Board's ophthalmic list, if he or she were to be included in it;" and

- (c) yn is-baragraff (i), hepgorer y geiriau "by the National Health Service Counter Fraud Service " ac "case".

### Diwygio rheoliad 7C

28. Ar ddechrau rheoliad 7C(1) (apelio i'r FHSAA) mewnosoder-

"Except in a case to which regulation 7A(2) (mandatory grounds of refusal) applies,".

### Diwygio rheoliad 7D

29.-(1) Diwygir rheoliad 7D o'r Rheoliadau Offthalmig yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (14), ar ôl is-baragraff (b), mewnosoder yr is-baragraff canlynol-

"(ff) if the optician is a corporate optician, the names addresses and dates of birth of its directors, with the case of a director, who is a member of a profession regulated by a body for the time being mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, that fact and his or her registration number with that body;".

(3) Ym mharagraff (15)-

(a) ar ôl is-baragraff (f) mewnosoder yr is-baragraff canlynol-

"(ff) the NCAA;" ac

(b) yn lle is-baragraff (h) rhodder yr is-baragraff canlynol-

"(h) where it is a fraud case, the NHS Counter Fraud and Security Management Service, and, in respect of a person or body falling within sub-paragraph (a), (b), (f) or (h) that notification must be given not more than 7 days after the Local Health Board makes the decision referred to in paragraph (1)."

### Diwygio rheoliad 8

30.-(1) Diwygir rheoliad 8 o'r Rheoliadau Offthalmig (tynnu yn ôl o'r rhestr offthalmig) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ar ôl paragraff (1) mewnosoder y paragraff canlynol-

"(1A) An ophthalmic medical practitioner or optician, who applies for inclusion in a supplementary list, must give notice to the Local Health Board, as soon as practicable thereafter, that he or she intends to withdraw from its ophthalmic list if his or her name is included in the supplementary list of any Local Health Board."

- (c) in sub-paragraph (i), omit the words "by the National Health Service Counter Fraud Service" and "case".

### Amendment of regulation 7C

28. At the beginning of regulation 7C(1) (appeal to the FHSAA) insert-

"Except in a case to which regulation 7A(2) (mandatory grounds of refusal) applies,".

### Amendment of regulation 7D

29.-(1) Regulation 7D of the Ophthalmic Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph (14), after sub-paragraph (b), insert the following sub-paragraph-

"(bb) if the optician is a corporate optician, the names addresses and dates of birth of its directors, with the case of a director, who is a member of a profession regulated by a body for the time being mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, that fact and his or her registration number with that body;".

(3) In paragraph (15)-

(a) after sub-paragraph (f) insert the following sub-paragraph-

" (ff) the NCAA;" and

(b) for sub-paragraph (h) substitute the following sub-paragraph-

" (h) where it is a fraud case, the NHS Counter Fraud and Security Management Service, and, in respect of a person or body falling within sub-paragraph (a), (b), (f) or (h) that notification must be given not more than 7 days after the Local Health Board makes the decision referred to in paragraph (1)."

### Amendment of regulation 8

30.-(1) Regulation 8 of the Ophthalmic Regulations (withdrawal from the ophthalmic list) is amended in accordance with the following provisions of this regulation.

(2) After paragraph (1) insert the following paragraph-

" (1A) An ophthalmic medical practitioner or optician, who applies for inclusion in a supplementary list, must give notice to the Local Health Board, as soon as practicable thereafter, that he or she intends to withdraw from its ophthalmic list if his or her name is included in the supplementary list of any Local Health Board."

(3) Ar ôl paragraff (3) ychwaneger y paragraffau canlynol-

"(4) In the case of a notice pursuant to paragraph (1A), the Local Health Board must remove the name of the ophthalmic medical practitioner or optician from its ophthalmic list as soon as it confirms that his or her name is included in a supplementary list.

(5) A notice given pursuant to paragraph (1A) may not be withdrawn once the name of the ophthalmic medical practitioner or optician is included in a supplementary list."

### **Diwygio rheoliad 9**

**31.-**(1) Diwygir rheoliad 9 o'r Rheoliadau Offthalmig (tynnu oddi ar restr offthalmig) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (1)-

(a) yn is-baragraff (a) hepgorer "or";

(b) ar ôl is-baragraff (a) mewnosoder yr is-baragraff canlynol-

"(aa) in the case of a corporate optician, has been dissolved or ceased trading;"

(c) ar ôl is-baragraff (b), mewnosoder y canlynol-

" or

(c) has had his or her name included in the supplementary list of any Local Health Board,;" ac

(d) ar y diwedd, ychwaneger "and, except in the case to which sub-paragraph (a) applies, notify the contractor immediately that he or she has been removed from the list;"

(3) Ym mharagraff (2A), yn lle "by direction of the Tribunal" rhodder "from the ophthalmic list" .

(4) Ym mharagraff (5), yn lle "this regulation" rhodder "paragraph (2)" .

### **Diwygio rheoliad 9B**

**32.-**(1) Diwygir rheoliad 9B o'r Rheoliadau Offthalmig (meini prawf ar gyfer penderfyniadau ynglyn â thynnu enwau) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Yn lle paragraff (1) rhodder y paragraff canlynol-

" (1) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(4) of the Act (an unsuitability case), it must-

(a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A;

(3) After paragraph (3) add the following paragraphs-

" (4) In the case of a notice pursuant to paragraph (1A), the Local Health Board must remove the name of the ophthalmic medical practitioner or optician from its ophthalmic list as soon as it confirms that his or her name is included in a supplementary list.

(5) A notice given pursuant to paragraph (1A) may not be withdrawn once the name of the ophthalmic medical practitioner or optician is included in a supplementary list."

### **Amendment of regulation 9**

**31.-**(1) Regulation 9 of the Ophthalmic Regulations (removal from the ophthalmic list) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)-

(a) in sub-paragraph (a) omit "or";

(b) after sub-paragraph (a) insert the following sub-paragraph-

"(aa) in the case of a corporate optician, has been dissolved or ceased trading;"

(c) after sub-paragraph (b), insert the following-

" or

(c) has had his or her name included in the supplementary list of any Local Health Board,;" and

(d) at the end, add "and, except in the case to which sub-paragraph (a) applies, notify the contractor immediately that he or she has been removed from the list;"

(3) In paragraph (2A), for "by direction of the Tribunal" substitute "from the ophthalmic list".

(4) In paragraph (5), for "this regulation" substitute "paragraph (2)".

### **Amendment of regulation 9B**

**32.-**(1) Regulation 9B of the Ophthalmic Regulations (criteria for decisions on removal) is amended in accordance with the following provisions of this regulation.

(2) For paragraph (1) substitute the following paragraph-

" (1) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(4) of the Act (an unsuitability case), it must-

(a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A;

- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (2)."

(3) Ym mharagraff (2)-

- (a) yn lle "criteria" rhodder "matters" ;
- (b) yn lle is-baragraffau (b) i (f) rhodder yr is-baragraffau canlynol yn eu lle-
  - "(b)the length of time since any offence, incident, conviction or investigation;
  - (c) whether there are other offences, incidents or investigations to be considered;
  - (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
  - (e) the relevance of any offence, incident or investigation to the ophthalmic medical practitioner or optician's provision of general ophthalmic services and the likely risk to his or her patients or to public finances;
  - (f) whether any offence was a sexual offence to which Part 1 of the Sexual Offences Act 2003 applies, or if had been committed in England and Wales, would have applied;"

(c) ar ôl is-baragraff (h) ychwaneger y canlynol-

" and

- (j) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed contingently or suspended from any list, or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action".

(4) Yn lle paragraff (3) rhodder y paragraff canlynol-

"(3) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(3) of the Act ("a fraud case"), it must-

- (a) consider any information relating to the ophthalmic medical practitioner or

- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (2)."

(3) In paragraph (2)-

- (a) for "criteria" substitute "matters";
- (b) for sub-paragraphs (b) to (f) substitute the following sub-paragraphs-
  - " (b) the length of time since any offence, incident, conviction or investigation;
  - (c) whether there are other offences, incidents or investigations to be considered;
  - (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
  - (e) the relevance of any offence, incident or investigation to the ophthalmic medical practitioner or optician's provision of general ophthalmic services and the likely risk to his or her patients or to public finances;
  - (f) whether any offence was a sexual offence to which Part 1 of the Sexual Offences Act 2003 applies, or if had been committed in England and Wales, would have applied;"

(c) after sub-paragraph (h) add the following-

" and

- (j) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed contingently or suspended from any list, or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action".

(4) For paragraph (3) substitute the following paragraph-

" (3) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(3) of the Act ("a fraud case"), it must-

- (a) consider any information relating to the ophthalmic medical practitioner or

optician which it has received in accordance with any provision of Schedule 1 or 1A;

- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (4)."

(5) Ym mharagraff (4)-

- (a) yn lle "criteria" rhodder "matters" ;
- (b) yn is-baragraff (d) yn lle "any such incident" rhodder "any such offence, investigation or incident" ; ac
- (c) ar ddiwedd is-baragraff (g) ychwaneger y canlynol-  
" and  
(j) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action."

(6) Yn lle paragraff (5) rhodder y paragraff canlynol-

" (5) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49(F)(2) of the Act ("an efficiency case"), it must-

- (a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A.
- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (6)."

(7) Ym mharagraff (6)-

- (a) yn lle "criteria" rhodder "matters" ;
- (b) ar ddiwedd is-baragraff (f) ychwaneger "or the

optician which it has received in accordance with any provision of Schedule 1 or 1A;

- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (4)."

(5) In paragraph (4)-

- (a) for "criteria" substitute "matters";
- (b) in sub-paragraph (d) for "any such incident" substitute "any such offence, investigation or incident"; and
- (c) at the end of sub-paragraph (g) add the following-  
" and  
(j) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action."

(6) For paragraph (5) substitute the following paragraph-

" (5) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49(F)(2) of the Act ("an efficiency case"), it must-

- (a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A.
- (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
- (c) in reaching its decision, take into consideration the matters set out in paragraph (6)."

(7) In paragraph (6)-

- (a) for "criteria" substitute "matters";
- (b) at the end of sub-paragraph (f) add "or the



Supplementary List Regulations"; ac

(c) ar ddiwedd is-baragraff (h) ychwaneger y canlynol-

" and

(j) in the case of a corporate optician, whether a person, who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action."

### Diwygio rheoliad 9C

33. Yn rheoliad 9C(1) (achosion lle mae'n rhaid tynnu ymarferydd), ar ôl is-baragraff (b) rhodder yr is-baragraffau canlynol-

" (c) is subject to a national disqualification;

(d) in the case of an ophthalmic medical practitioner, is the subject of-

(i) a direction given by the Professional Conduct Committee of the General Medical Council under section 36(1)(i) or (ii) of the Medical Act 1983(1) (professional misconduct and criminal offences,

(ii) an order or direction made by that Committee under section 38(1) of the Medical Act 1983 (order for immediate suspension), or

(iii) from the coming into force of article 13 of the Medical Act 1983 (Amendment) Order 2002, a direction by a Fitness to Practise Panel of the General Medical Council for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), (10)(a) or (b), or (12)(a) or (b) (functions of a Fitness to Practise Panel), or section 38(1) of the Medical Act 1983 (power to order immediate suspension); or

(e) in the case of an optician, is the subject of a suspension order under section 17 of the Optician's Act."

### Diwygio rheoliad 9D

34.-(1) Diwygir rheoliad 9D o'r Rheoliadau Offthalmig yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (1)-

Supplementary List Regulations"; and

(c) at the end of sub-paragraph (h) add the following-

" and

(j) in the case of a corporate optician, whether a person, who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action."

### Amendment of regulation 9C

33. In regulation 9C(1) (cases where a practitioner must be removed), after sub-paragraph (b) insert the following sub-paragraphs-

" (c) is subject to a national disqualification;

(d) in the case of an ophthalmic medical practitioner, is the subject of-

(i) a direction given by the Professional Conduct Committee of the General Medical Council under section 36(1)(i) or (ii) of the Medical Act 1983(1) (professional misconduct and criminal offences,

(ii) an order or direction made by that Committee under section 38(1) of the Medical Act 1983 (order for immediate suspension), or

(iii) from the coming into force of article 13 of the Medical Act 1983 (Amendment) Order 2002, a direction by a Fitness to Practise Panel of the General Medical Council for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), (10)(a) or (b), or (12)(a) or (b) (functions of a Fitness to Practise Panel), or section 38(1) of the Medical Act 1983 (power to order immediate suspension); or

(e) in the case of an optician, is the subject of a suspension order under section 17 of the Optician's Act."

### Amendment of regulation 9D

34.-(1) Regulation 9D of the Ophthalmic Regulations is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)-

(1) 1983, p.54; diwygiwyd adran 36 gan O.S. 2000/1803.

(1) 1983 c.54; section 36 was amended by S.I. 2000/1803.

- (a) ar ôl is-baragraff (d) hepgorer "or"; ac
- (b) ar ôl is-baragraff (e) mewnosoder-  
" neu
- (f) removes an ophthalmic medical practitioner or optician under regulation 9 or 9C."

(3) Ym mharagraff (2)-

- (a) ar ôl is-baragraff (b) mewnosoder yr is-baragraff canlynol-  
"(b) any Local Health Board in Wales in whose area the ophthalmic medical practitioner or optician, to the knowledge of the notifying Local Health Board, provides or assists in the provision of general ophthalmic services;"
- (b) ar ôl is-baragraff (f) mewnosoder yr is-baragraff canlynol-  
" (ff) the NCAA;" ac
- (c) yn lle is-baragraff (h) rhodder yr is-baragraff canlynol-  
"(h) where it is a fraud case, the NHS Counter Fraud and Security Management Service, and that notification will be given not later than 7 days after the Local Health Board makes the decision referred to in paragraph (1)."

(4) Ym mharagraff (4), yn lle is-baragraff (a) rhodder yr is-baragraff canlynol-

- "(a) the name, address and, where applicable, the date of birth of the ophthalmic medical practitioner or optician, and, in the case of a corporate optician, that information in respect of its directors;"

(5) Ym mharagraff (7), yn lle "paragraph (2)(b), (g) and (h) and paragraph (3)" rhodder "paragraph (2)(b), (ff), (g), a (h) and those in paragraph (3)" yn eu lle.

(6) Ar ôl paragraff (8) mewnosoder y paragraff canlynol-

- "(9) Where a Local Health Board is notified by the FHSAA that it has imposed a national disqualification on an ophthalmic medical practitioner or optician who was, or had applied to be, included in its ophthalmic list, the Local Health Board must notify the persons or bodies referred to in paragraphs (2)(b), (ff), (g), and (h) and those in paragraph (3)."

## Diwygio rheoliad 9E

### 35. Diwygir rheoliad 9E o'r Rheoliadau Offthalmig (y weithdrefn dynnu enwau) fel a ganlyn-

- (a) ym mharagraffau (4) a (7) yn lle "inform" rhodder "notify" ; ac
- (b) ar ddiwedd pob un o baragraffau (4), (5) a (6) ychwaneger y geiriau "within 7 days of

- (a) after sub-paragraph (d) omit "or"; and
- (b) after sub-paragraph (e) insert-  
" or

- (f) removes an ophthalmic medical practitioner or optician under regulation 9 or 9C."

(3) In paragraph (2)-

- (a) after sub-paragraph (b) insert the following sub-paragraph-  
"(b) any Local Health Board in Wales in whose area the ophthalmic medical practitioner or optician, to the knowledge of the notifying Local Health Board, provides or assists in the provision of general ophthalmic services;"
- (b) after sub-paragraph (f) insert the following sub-paragraph-  
" (ff) the NCAA;" and
- (c) for sub-paragraph (h) substitute the following sub-paragraph-  
"(h) where it is a fraud case, the NHS Counter Fraud and Security Management Service, and that notification will be given not later than 7 days after the Local Health Board makes the decision referred to in paragraph (1)."

(4) In paragraph (4), for sub-paragraph (a) substitute the following sub-paragraph-

- "(a) the name, address and, where applicable, the date of birth of the ophthalmic medical practitioner or optician, and, in the case of a corporate optician, that information in respect of its directors;"

(5) In paragraph (7), for "paragraph (2)(b), (g) and (h) and paragraph (3)" substitute "paragraph (2)(b), (ff), (g), and (h) and those in paragraph (3)."

(6) After paragraph (8) insert the following paragraph-

- " (9) Where a Local Health Board is notified by the FHSAA that it has imposed a national disqualification on an ophthalmic medical practitioner or optician who was, or had applied to be, included in its ophthalmic list, the Local Health Board must notify the persons or bodies referred to in paragraphs (2)(b), (ff), (g), and (h) and those in paragraph (3)."

## Amendment of regulation 9E

### 35. Regulation 9E of the Ophthalmic Regulations (procedure on removal) is amended as follows-

- (a) in paragraphs (4) and (7) for "inform" substitute "notify"; and
- (b) at the end of each of paragraphs (4), (5) and (6) add the words "within 7 days of making that

making that decision".

### **Diwygio rheoliad 9F**

**36.**-(1) Diwygir rheoliad 9F o'r Rheoliadau Offthalmig (y weithdrefn atal dros dro) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ym mharagraff (2) yn lle y geiriau "and the reasons" hyd at ddiwedd y paragraff, rhodder "within 7 days of making that decision," .

(3) Ar ôl paragraff (2) mewnosoder y paragraff canlynol-

" (2A) If the ophthalmic medical practitioner or optician does not wish to have an oral hearing or does not attend the oral hearing, the Local Health Board may suspend him or her with immediate effect."

(4) Ar ddiwedd paragraff (5) ychwaneger "within 7 days of making that decision."

### **Diwygio rheoliad 9G**

**37.** Ar ddiwedd rheoliad 9G(5) (y weithdrefn adolygu) o'r Rheoliadau Offthalmig ychwaneger "within 7 days of making that decision."

### **Mewnosod rheoliad 9I**

**38.** Ar ôl rheoliad 9H o'r Rheoliadau Offthalmig (anghymhwysiad cenedlaethol) mewnosoder y rheoliad canlynol-

#### **"Readmission**

**9I.**-(1) Where an ophthalmic medical practitioner or optician has been removed from its ophthalmic list by a Local Health Board on the grounds that the he or she had been convicted of a criminal offence, and that conviction is overturned on appeal, it may agree to include the ophthalmic medical practitioner or optician in its ophthalmic list without a full application if it-

- (a) is satisfied that there are no other matters that need to be considered; and
- (b) has received an undertaking from the ophthalmic medical practitioner or optician to comply with the requirements of these Regulations.

(2) In a case to which paragraph (1) applies, if the conviction is reinstated on a further appeal, the previous determination of the Local Health Board to remove that ophthalmic medical practitioner or optician from its ophthalmic list will once again have effect."

### **Diwygio Atodlen 1**

**39.**-(1) Diwygir Atodlen 1 o'r Rheoliadau Offthalmig (amodau gwasanaeth) yn unol â

decision".

### **Amendment of regulation 9F**

**36.**-(1) Regulation 9F of the Ophthalmic Regulations (procedure on suspension) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) for the words "and the reasons" to the end of the paragraph, substitute "within 7 days of a making that decision."

(3) After paragraph (2) insert the following paragraph-

" (2A) If the ophthalmic medical practitioner or optician does not wish to have an oral hearing or does not attend the oral hearing, the Local Health Board may suspend him or her with immediate effect."

(4) At the end of paragraph (5) add "within 7 days of making that decision."

### **Amendment of regulation 9G**

**37.** At the end of regulation 9G(5) (procedure on review) of the Ophthalmic Regulations add "within 7 days of making that decision."

### **Insertion of regulation 9I**

**38.** After regulation 9H of the Ophthalmic Regulations (national disqualification) insert the following regulation-

#### **"Readmission**

**9I.**-(1) Where an ophthalmic medical practitioner or optician has been removed from its ophthalmic list by a Local Health Board on the grounds that the he or she had been convicted of a criminal offence, and that conviction is overturned on appeal, it may agree to include the ophthalmic medical practitioner or optician in its ophthalmic list without a full application if it-

- (a) is satisfied that there are no other matters that need to be considered; and
- (b) has received an undertaking from the ophthalmic medical practitioner or optician to comply with the requirements of these Regulations.

(2) In a case to which paragraph (1) applies, if the conviction is reinstated on a further appeal, the previous determination of the Local Health Board to remove that ophthalmic medical practitioner or optician from its ophthalmic list will once again have effect."

### **Amendment of Schedule 1**

**39.**-(1) Schedule 1 to the Ophthalmic Regulations (terms of service) is amended in accordance with the

darpariaethau canlynol y rheoliad hwn.

(2) Yn lle paragraffau 3 (adeiladau lle bydd gwasanaethau offthalmig cyffredinol yn cael eu darparu) a 3A (ymweliadau) rhodder y paragraffau canlynol-

**"Premises at which general ophthalmic services are to be provided"**

3. Subject to paragraph 3A, a contractor must provide general ophthalmic services only at an address which is included in relation to the contractor in the ophthalmic list.

**Provision of mobile services**

3A.-(1) A contractor, who has made arrangements with the Local Health Board to provide mobile services, may provide them only in accordance with sub-paragraph (2) after giving notice in accordance with sub-paragraph (3).

(2) The contractor may only provide mobile services if-

- (a) the patient has requested the contractor to provide those services to him or her, or, where the patient is incapable of making such a request, a relative or primary carer of that patient or a duly authorised person has made such a request; and
- (b) subject to sub-paragraphs (5), (6) and (7), the contractor has notified the Local Health Board in accordance with sub-paragraph (3), and if applicable, (4) and the Local Health Board has not informed the contractor that it is not content with those changes.

(3) The contractor must notify the Local Health Board of his or her intention to provide mobile services-

- (a) where they are to be provide to three or more persons at a day centre or residential centre, at least three weeks in advance; or
- (b) in any other case, as far in advance as is reasonably possible, but not less than 48 hours (except that no part of a Saturday, Sunday or bank holiday will count toward that period) before that provision,

identifying the persons to whom the services are to be provided and specifying the date and approximate time when the contractor will provide them.

(4) If the contractor wishes to change any of the matters of which he or she has notified the Local Health Board under sub-paragraph (3), the contractor must notify the Local Health Board at least 48 hours (except that no part of a Saturday, Sunday or bank holiday will count towards that period) before-

- (a) if the contractor wishes to provide mobile

following provisions of this regulation.

(2) For paragraphs 3 (premises at which general ophthalmic services are to be provided) and 3A (visits) substitute the following paragraphs-

**"Premises at which general ophthalmic services are to be provided"**

3 Subject to paragraph 3A, a contractor must provide general ophthalmic services only at an address which is included in relation to the contractor in the ophthalmic list.

**Provision of mobile services**

3A.-(1) A contractor, who has made arrangements with the Local Health Board to provide mobile services, may provide them only in accordance with sub-paragraph (2) after giving notice in accordance with sub-paragraph (3).

(2) The contractor may only provide mobile services if-

- (a) the patient has requested the contractor to provide those services to him or her, or, where the patient is incapable of making such a request, a relative or primary carer of that patient or a duly authorised person has made such a request; and
- (b) subject to sub-paragraphs (5), (6) and (7), the contractor has notified the Local Health Board in accordance with sub-paragraph (3), and if applicable, (4) and the Local Health Board has not informed the contractor that it is not content with those changes.

(3) The contractor must notify the Local Health Board of his or her intention to provide mobile services-

- (a) where they are to be provide to three or more persons at a day centre or residential centre, at least three weeks in advance; or
- (b) in any other case, as far in advance as is reasonably possible, but not less than 48 hours (except that no part of a Saturday, Sunday or bank holiday will count toward that period) before that provision,

identifying the persons to whom the services are to be provided and specifying the date and approximate time when the contractor will provide them.

(4) If the contractor wishes to change any of the matters of which he or she has notified the Local Health Board under sub-paragraph (3), the contractor must notify the Local Health Board at least 48 hours (except that no part of a Saturday, Sunday or bank holiday will count towards that period) before-

- (a) if the contractor wishes to provide mobile

services to further or different persons, that provision;

- (b) if the contractor wish to change the date or time of the provision of those services, both-
  - (i) the previously notified date of that provision, and
  - (ii) if the notification is to change the date, the date so notified.

(5) If the contractor is unable to attend the place at which the contractor has notified the Local Health Board that he or she would be attending, the contractor may instead, on that day and at that approximate time, provide mobile services at another location ("the substitution"), provided that the Local Health Board notifies the contractor that it agrees to the substitution.

(6) In a case to which paragraph (5) applies the contractor may attend and provide mobile services at the originally notified place at such time as the Local Health Board agrees.

(7) (7) In a case where circumstances have arisen whereby it was not possible to notify in accordance with sub-paragraph (4)(a), the contractor may provide mobile services to up to 3 other persons at the previously notified time and place."

(3) Ym mharagraff 4 (mangre a chyfarpar)-

- (a) yn is-baragraff (1), yn lle "sub-paragraph (1A)" rhodder "sub-paragraphs (1A) to (1D)";
- (b) Yn lle is-baragraff (1A) rhodder y canlynol-

" (1A) A contractor, who has made arrangements with the Local Health Board to provide mobile services, must provide suitable equipment for the provision of such services.

(1B) A contractor, who was included on the ophthalmic list of a Local Health Board on 31 January 2006, and who-

- (a) does not provide or no longer provides accommodation and equipment, as required under sub-paragraph (1), or equipment as required under sub-paragraph (1A); and
- (b) is not employed, in relation to the general ophthalmic services which he or she has undertaken to provide in the area of that Local Health Board, by another contractor,

may, instead of providing the accommodation and equipment, as required under sub-paragraph (1), or equipment as required by sub-paragraph (1A), enter into arrangements of the kind described in sub-paragraph (1C), provided the conditions set out in sub-paragraph (1D) are met.

(1C) The arrangements referred to in sub-

services to further or different persons, that provision;

- (b) if the contractor wish to change the date or time of the provision of those services, both-
  - (i) the previously notified date of that provision, and
  - (ii) if the notification is to change the date, the date so notified.

(5) If the contractor is unable to attend the place at which the contractor has notified the Local Health Board that he or she would be attending, the contractor may instead, on that day and at that approximate time, provide mobile services at another location ("the substitution"), provided that the Local Health Board notifies the contractor that it agrees to the substitution.

(6) In a case to which paragraph (5) applies the contractor may attend and provide mobile services at the originally notified place at such time as the Local Health Board agrees.

(7) In a case where circumstances have arisen whereby it was not possible to notify in accordance with sub-paragraph (4)(a), the contractor may provide mobile services to up to 3 other persons at the previously notified time and place."

(3) In paragraph 4 (premises and equipment)-

- (a) in sub-paragraph (1), for "sub-paragraph (1A)" substitute "sub-paragraphs (1A) to (1D)";
- (b) for sub-paragraph (1A) substitute the following-

" (1A) A contractor, who has made arrangements with the Local Health Board to provide mobile services, must provide suitable equipment for the provision of such services.

(1B) A contractor, who was included on the ophthalmic list of a Local Health Board on 31 January 2006, and who-

- (a) does not provide or no longer provides accommodation and equipment, as required under sub-paragraph (1), or equipment as required under sub-paragraph (1A); and
- (b) is not employed, in relation to the general ophthalmic services which he or she has undertaken to provide in the area of that Local Health Board, by another contractor,

may, instead of providing the accommodation and equipment, as required under sub-paragraph (1), or equipment as required by sub-paragraph (1A), enter into arrangements of the kind described in sub-paragraph (1C), provided the conditions set out in sub-paragraph (1D) are met.

(1C) The arrangements referred to in sub-

paragraph (1B) are legally enforceable arrangements under which-

- (a) requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment; or
- (b) in the case of the provision of mobile services, suitable equipment,

are available to the contractor for the provision of the general ophthalmic services that he or she has undertaken to provide, which permit inspection as required under paragraph 4(2) or (2A).

(1D) The conditions referred to in sub-paragraph (1B) are that the contractor has satisfied the Local Health Board that-

- (a) the arrangements are legally enforceable and permit inspection as required under paragraph 4(2) or (2A);
- (b) the accommodation and equipment or, in the case of the provision of mobile services, equipment, provided under the arrangements are adequate and suitable.";
- (c) yn is-baragraff (2) yn lle "sub-paragraph" rhodder "sub-paragraphs (2A) and (3)";
- (ch) yn is-baragraff (2A), yn lle "In the case of a mobile practice, the contractor" rhodder "A contractor, who has made arrangements with the Local Health Board to provide mobile services," ; ac
- (d) ar ôl is-baragraff (2A) mewnosoder yr is-baragraff canlynol-

" (3) In addition to the right to inspect under sub-paragraph (2A), a contractor who has made arrangements with the Local Health Board to provide mobile services, must allow an authorised officer of the National Assembly for Wales or that Local Health Board to inspect the facilities and equipment that he or she uses when providing those services at a location of which the contractor has notified the Local Health Board in accordance with paragraph 3A(3)."

(4) Mae paragraff 5 (hysbysiadau) yn cael ei ail-rifo fel is-baragraff (1) o baragraff 5 ac-

- (a) ar y dechrau mewnosoder "Subject to sub-paragraph (2)," ; ac
- (b) ar ôl is-baragraff (1), mewnosoder yr is-baragraff canlynol-

"(2) Where mobile services are being provided, a notice is required to be displayed only in so far as it is reasonably practicable to do so."

(5) Ym mharagraff 6 (cofnodion)-

- (a) ar ddechrau is-baragraff (1) mewnosoder "Subject to paragraph 6ZA" ; ac
- (b) yn is-baragraff (2), yn lle "paragraph 8(5)" rhodder "paragraphs 6ZA and 8(5)" .

paragraph (1B) are legally enforceable arrangements under which-

- (a) requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment; or
- (b) in the case of the provision of mobile services, suitable equipment,

are available to the contractor for the provision of the general ophthalmic services that he or she has undertaken to provide, which permit inspection as required under paragraph 4(2) or (2A).

(1D) The conditions referred to in sub-paragraph (1B) are that the contractor has satisfied the Local Health Board that-

- (a) the arrangements are legally enforceable and permit inspection as required under paragraph 4(2) or (2A);
- (b) the accommodation and equipment or, in the case of the provision of mobile services, equipment, provided under the arrangements are adequate and suitable.";
- (c) in sub-paragraph (2) for "sub-paragraph (2A)" substitute "sub-paragraphs (2A) and (3)";
- (d) in sub-paragraph (2A), for "In the case of a mobile practice, the contractor" substitute "A contractor, who has made arrangements with the Local Health Board to provide mobile services," ; and
- (e) after sub-paragraph (2A) insert the following sub-paragraph-

" (3) In addition to the right to inspect under sub-paragraph (2A), a contractor who has made arrangements with the Local Health Board to provide mobile services, must allow an authorised officer of the National Assembly for Wales or that Local Health Board to inspect the facilities and equipment that he or she uses when providing those services at a location of which the contractor has notified the Local Health Board in accordance with paragraph 3A(3)."

(4) Paragraph 5 (notices) is re-numbered as sub-paragraph (1) of paragraph 5 and-

- (a) at the beginning insert "Subject to sub-paragraph (2)," ; and
- (b) after sub-paragraph (1), insert the following sub-paragraph-

"(2) Where mobile services are being provided, a notice is required to be displayed only in so far as it is reasonably practicable to do so."

(5) In paragraph 6 (records)-

- (a) at the beginning of sub-paragraph (1) insert "Subject to paragraph 6ZA"; and
- (b) in sub-paragraph (2), for "paragraph 8(5)" substitute "paragraphs 6ZA and 8(5)".

(6) Ar ôl paragraff 6 mewnosoder y paragraff canlynol-

**6ZA.**-(1) A contractor, who was included on the list of a Local Health Board on 31 January 2006 and who-

- (a) does not keep or no longer keeps records as required under paragraph 6; and
- (b) is not employed, in relation to the general ophthalmic services he or she provides in the area of that Local Health Board, by another contractor,

may, instead of keeping those records, comply with the conditions set out in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that the contractor has-

- (a) made legally enforceable arrangements that a proper record in respect of each patient to whom the contractor provides general ophthalmic services, giving appropriate details of sight testing, is kept and that all such records are kept for a period of seven years and during that period must be produced when and as required under paragraph 6(2);
- (b) satisfied the Local Health Board as to the keeping of records and that the arrangements are legally enforceable and require such production; and
- (c) access to those records at all reasonable times."

(7) Ym mharagraff 6A (datganiadau o gollfarnau)-

(a) ar ddiwedd is-baragraff (3) ychwaneger "and for the purposes of this sub-paragraph, "employer" includes any partnership of which the ophthalmic medical practitioner or optician is or was a member";

(b) yn is-baragraff (4)-

- (i) yn lle "Having supplied the information referred to in paragraph (1), the contractor shall inform", rhodder "The contractor must notify",
- (ii) ar ôl paragraff (c) ychwaneger y paragraffau canlynol-

"(cc) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995(1) (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(2) (penalty as alternative to prosecution);

(cd) has, in proceedings in Scotland for an offence, been the subject of an order

(1) 1995 c.46

(2) 1992 c.5

(6) After paragraph 6 insert the following paragraph-

**"6ZA.**-(1) A contractor, who was included on the list of a Local Health Board on 31 January 2006 and who-

- (a) does not keep or no longer keeps records as required under paragraph 6; and
- (b) is not employed, in relation to the general ophthalmic services he or she provides in the area of that Local Health Board, by another contractor,

may, instead of keeping those records, comply with the conditions set out in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that the contractor has-

- (a) made legally enforceable arrangements that a proper record in respect of each patient to whom the contractor provides general ophthalmic services, giving appropriate details of sight testing, is kept and that all such records are kept for a period of seven years and during that period must be produced when and as required under paragraph 6(2);
- (b) satisfied the Local Health Board as to the keeping of records and that the arrangements are legally enforceable and require such production; and
- (c) access to those records at all reasonable times."

(7) In paragraph 6A (declarations of convictions)-

(a) at the end of sub-paragraph (3) add "and for the purposes of this sub-paragraph, "employer" includes any partnership of which the ophthalmic medical practitioner or optician is or was a member";

(b) in sub-paragraph (4)-

- (i) for "Having supplied the information referred to in paragraph (1), the contractor shall inform", substitute "The contractor must notify",
- (ii) after paragraph (c) add the following paragraphs-

"(cc) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995(1) (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(2) (penalty as alternative to prosecution);

(cd) has, in proceedings in Scotland for an offence, been the subject of an order

(1) 1995 c.46

(2) 1992 c.5

- under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;";
- (iii) ym mharagraff (d) hepgorer y geiriau "or is subject" hyd at ddiwedd y paragraff ;
- (iv) yn lle paragraff (i) rhodder-
- "(i) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse";
- (c) yn is-baragraff (5)-
- (i) yn lle "Having supplied the information referred to in paragraph (1), the contractor shall inform" rhodder "The contractor must notify",
- (ii) rhodder y paragraff canlynol yn lle paragraff (f)-
- "(f) becomes to his or her knowledge the subject of any investigation in relation to fraud, or is notified of the outcome of such an investigation, if adverse;" ac
- (iii) ym mharagraff (b) hepgorer y geiriau "or is subject" hyd at ddiwedd y paragraff;
- (ch) ar ôl is-baragraff (5) mewnosoder yr is-baragraff canlynol-
- " (5A) If the contractor is a corporate optician, it must notify the Local Health Board within 7 days if one of its directors or a person who was in the preceding six months or was at the time of the originating events one of its directors-
- (a) is convicted of any criminal offence in the United Kingdom;
- (b) is bound over following any criminal conviction in the United Kingdom;
- (c) accepts a police caution in the United Kingdom;
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (f) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (g) is charged in the United Kingdom with a
- under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;";
- (iii) in paragraph (d) omit the words "or is subject" to the end of the paragraph;
- (iv) for paragraph (i) substitute-
- "(i) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse";
- (c) in sub-paragraph (5)-
- (i) for "Having supplied the information referred to in paragraph (1), the contractor shall inform" substitute "The contractor must notify",
- (ii) substitute the following paragraph for paragraph (f)-
- "(f) becomes to his or her knowledge the subject of any investigation in relation to fraud, or is notified of the outcome of such an investigation, if adverse;" and
- (iii) in paragraph (b) omit the words "or is subject " to the end of the paragraph;
- (d) after sub-paragraph (5) insert the following sub-paragraph-
- " (5A) If the contractor is a corporate optician, it must notify the Local Health Board within 7 days if one of its directors or a person who was in the preceding six months or was at the time of the originating events one of its directors-
- (a) is convicted of any criminal offence in the United Kingdom;
- (b) is bound over following any criminal conviction in the United Kingdom;
- (c) accepts a police caution in the United Kingdom;
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (f) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (g) 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;

- (h) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into his or her professional conduct, and there is finding against the contractor;
- (i) becomes subject to any 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 and of any finding against him or her;
- (j) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (k) becomes the subject of any investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;
- (l) is removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,

and, if so, give the name and address of that director or ex-director 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;"

(d) ar ôl is-baragraff (6) ychwaneger yr is-baragraff canlynol-

"(7) An ophthalmic medical practitioner or optician, who is included in the ophthalmic list of a Local Health Board must supply that Local Health Board with an enhanced criminal record certificate under section 115 of the Police Act 1997 in relation to himself or herself, if the Local Health Board at any time, for reasonable cause, gives the ophthalmic medical practitioner or optician notice to provide such a certificate."

(8) Ym mharagraff 6B (ceisiadau i restrï eraill)-

- (a) ar ddiwedd is-baragraff (a) hepgorer y gair "and"; a
- (b) ar ddiwedd is-baragraff (b) ychwaneger'r canlynol-

" and

- (c) in the case of a corporate optician, if any of its directors applies to be included in any list held by another Local Health

criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales would constitute a criminal offence;

- (h) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into his or her professional conduct, and there is finding against the contractor;
- (i) becomes subject to any 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 and of any finding against him or her;
- (j) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (k) becomes the subject of any investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;
- (l) is removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,

and, if so, give the name and address of that director or ex-director 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;"

(e) after sub-paragraph (6) add the following sub-paragraph-

" (7) An ophthalmic medical practitioner or optician, who is included in the ophthalmic list of a Local Health Board must supply that Local Health Board with an enhanced criminal record certificate under section 115 of the Police Act 1997 in relation to himself or herself, if the Local Health Board at any time, for reasonable cause, gives the ophthalmic medical practitioner or optician notice to provide such a certificate."

(8) In paragraph 6B (applications to other lists)-

- (a) at the end of sub-paragraph (a) omit the word "and"; and
- (b) at the end of sub-paragraph (b) add the following-

" and

- (c) in the case of a corporate optician, if any of its directors applies to be included in any list held by another Local Health

Board or equivalent body and the outcome of any such application."

(9) Ym mharagraff 7 (dirprwyon)-

- (a) yn lle is-baragraff (1) rhodder yr is-baragraff canlynol-

" (1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may arrange for sight to be tested on his or her behalf by an ophthalmic medical practitioner or optician, but no such arrangements can be made unless the name of the that ophthalmic medical practitioner or optician is included in an ophthalmic list or a supplementary list."; a

- (b) ar ôl is-baragraff (a) hepgorer y gair "and" ac is-baragraff (2)(b).

(10) Ym mharagraff 8 (gweithwyr)-

- (a) yn lle is-baragraffau (1), (2) a (3) rhodder

" (1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may employ to test sight-

- (a) an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list; or

- (b) a person who is authorised to test sight by rules made under section 24(3) of the Opticians Act 1989(1) (testing of sight), acting under the continuous personal supervision of an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list."; a

- (b) ar ôl is-baragraff (4)(a) hepgorer y gair "and" ac is-baragraff (4)(b).

(11) Ym mharagraff 9 (taliadau)-

- (a) yn lle is-baragraff (2) rhodder yr is-baragraffau canlynol-

" (2) Any such claim will be-

- (a) signed by the ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list and who performed the general ophthalmic services in respect of which the claim is made ("the practitioner"); and

- (b) in a case where the practitioner is not on the ophthalmic list of that Local Health Board, counter-signed on behalf of the contractor by a person (who may be the contractor) duly authorised by the contractor to counter-sign, whom the contractor has previously notified the Local Health Board as being so authorised.

Board or equivalent body and the outcome of any such application."

(9) In paragraph 7 (deputies)-

- (a) for sub-paragraph (1) substitute the following sub-paragraph-

" (1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may arrange for sight to be tested on his or her behalf by an ophthalmic medical practitioner or optician, but no such arrangements can be made unless the name of the that ophthalmic medical practitioner or optician is included in an ophthalmic list or a supplementary list."; and

- (b) after sub-paragraph (a) omit the word "and" and sub-paragraph (2)(b).

(10) In paragraph 8 (employees)-

- (a) for sub-paragraphs (1), (2) and (3) substitute-

" (1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may employ to test sight-

- (a) an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list; or

- (b) a person who is authorised to test sight by rules made under section 24(3) of the Opticians Act 1989(1) (testing of sight), acting under the continuous personal supervision of an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list."; and

- (b) after sub-paragraph (4)(a) omit the word "and" and sub-paragraph (4)(b).

(11) In paragraph 9 (payments)-

- (a) for sub-paragraph (2) substitute the following sub-paragraph-

" (2) Any such claim will be-

- (a) signed by the ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list and who performed the general ophthalmic services in respect of which the claim is made ("the practitioner"); and

- (b) in a case where the practitioner is not on the ophthalmic list of that Local Health Board, counter-signed on behalf of the contractor by a person (who may be the contractor) duly authorised by the contractor to counter-sign, whom the contractor has previously notified the Local Health Board as being so authorised.

(2A) In the case of a claim signed under sub-paragraph (2)(a), the practitioner must supply, the practitioner's signature, his or her professional registration number with the prefix and suffix given to that number in the ophthalmic list or supplementary list in which the practitioner's name is included; and

(2B) In the case of a claim counter-signed under sub-paragraph (2)(b), the person authorised to counter-sign must supply, with his or her counter-signature, the professional registration number of the contractor."

(b) yn is-baragraff (3) ar ôl "signatory" mewnosoder "or counter-signatory".

(12) Ym mharagraff 10(2) (profi golwg)-

(a) ar ôl "a contractor" rhodder "or an ophthalmic medical practitioner or optician assisting the contractor in the provision of general ophthalmic services"; a

(b) yn lle "inform the patient's doctor of his opinion" rhodder-

(i) refer the patient to an ophthalmic hospital,

(ii) inform the patient's doctor or GP practice that he or she has done so, and

(iii) give the patient a written statement that he or she has done so with details of the referral."

### Diwygio Atodlen 1A

40.-(1) Diwygir Atodlen 1A i'r Rheoliadau Offthalmig (yr wybodaeth a'r ymrwymadau y dylid eu rhoi wrth wneud cais am gynnwys ar y rhestr offthalmig) yn unol â darpariaethau canlynol y rheoliad hwn.

(2) Ar ddiwedd paragraff 4 ychwaneger "or in the case of a corporate optician, the address of its registered office, and, in either case, telephone number".

(3) Ar ddiwedd paragraff 6 ychwaneger "and the date of first registration in the register".

(4) Ym mharagraff 7(a)-

(a) ar ôl paragraff (iii) mewnosoder y paragraffau canlynol-

" (iia) has accepted a conditional offer under section 302 of the Criminal Proceedings (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);

(iib) has, in proceedings in Scotland for an

(2A) In the case of a claim signed under sub-paragraph (2)(a), the practitioner must supply, the practitioner's signature, his or her professional registration number with the prefix and suffix given to that number in the ophthalmic list or supplementary list in which the practitioner's name is included; and

(2B) In the case of a claim counter-signed under sub-paragraph (2)(b), the person authorised to counter-sign must supply, with his or her counter-signature, the professional registration number of the contractor."

(b) in sub-paragraph (3) after "signatory" insert "or counter-signatory".

(12) In paragraph 10(2) (testing of sight)-

(a) after "a contractor" insert "or an ophthalmic medical practitioner or optician assisting the contractor in the provision of general ophthalmic services"; and

(b) for "inform the patient's doctor of his opinion" substitute-

(i) refer the patient to an ophthalmic hospital,

(ii) inform the patient's doctor or GP practice that he or she has done so, and

(iii) give the patient a written statement that he or she has done so with details of the referral."

### Amendment of Schedule 1A

40.-(1) Schedule 1A to the Ophthalmic Regulations (information and undertakings to be given when applying to be included in the ophthalmic list) is amended in accordance with the following provisions of this regulation.

(2) At the end of paragraph 4 add "or in the case of a corporate optician, the address of its registered office, and, in either case, telephone number".

(3) At the end of paragraph 6 add "and the date of first registration in the register".

(4) In paragraph 7(a)-

(a) after paragraph (iii) insert the following paragraphs-

" (iia) has accepted a conditional offer under section 302 of the Criminal Proceedings (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);

(iib) has, in proceedings in Scotland for an

offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;";

(b) ym mharagraff (iv)-

- (i) yn lle y geiriau "United Kingdom" rhodder "England and Wales", a
- (ii) hepgorer y geiriau "or is subject" at ddiwedd y paragraff;

(c) yn lle paragraff (x) rhodder-

"(x)the ophthalmic medical practitioner or optician becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;";

(ch) yn lle paragraff (xi) rhodder y canlynol-

- (xi) is the subject of an investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;
- (xii) has been removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,

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 those proceedings, and any outcome;".

(5) Ym mharagraff 7(b)-

(a) ym mharagraff (ii)-

- (i) yn lle "the United Kingdom" rhodder "England and Wales", a
- (ii) hepgorer y geiriau "or is subject" at ddiwedd y paragraff ;

(b) yn lle paragraff (vi) rhodder y paragraff canlynol-

"(vi) it becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;"; ac

(c) ar ôl paragraff (vi) ychwaneger y paragraffau canlynol-

- "(vii) is the subject of any investigation by another Local Health Board which might lead to his or her removal from any list or equivalent list;
- (viii) has been refused, contingently removed or suspended from, refused

offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;";

(b) in paragraph (iv)-

- (i) for the words "United Kingdom" substitute "England and Wales", and
- (ii) omit the words "or is subject" to the end of the paragraph;

(c) for paragraph (x) substitute-

"(x)the ophthalmic medical practitioner or optician becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;";

(d) for paragraph (xi) substitute the following-

- "(xi) is the subject of an investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;
- (xii) has been removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,

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 those proceedings, and any outcome;".

(5) In paragraph 7(b)-

(a) in paragraph (ii)-

- (i) for "United Kingdom" substitute "England and Wales", and
- (ii) omit the words "or is subject" to the end of the paragraph;

(b) for paragraph (vi) substitute the following paragraph-

"(vi) it becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;"; and

(c) after paragraph (vi) add the following paragraphs-

- "(vii) is the subject of any investigation by another Local Health Board which might lead to his or her removal from any list or equivalent list;
- (viii) has been refused, contingently removed or suspended from, refused

admission to or conditionally included in any list or equivalent list,".

(6) Ar ddiwedd paragraff 7 ychwaneger is-baragraff (c)-

"(c)if the contractor is a corporate optician, information on whether any of its directors-

- (i) has any criminal convictions in the United Kingdom;
- (ii) has been bound over following a criminal conviction in the United Kingdom;
- (iii) has accepted a police caution in the United Kingdom;
- (iv) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a fixed penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (v) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (vi) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (vii) 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;
- (viii) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body;
- (ix) is to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (x) is the subject of any investigation by another Local Health Board or equivalent body which might lead to his or her removal from any list or equivalent list;
- (xi) has been removed, contingently removed or suspended from, refused admission to, or conditionally

admission to or conditionally included in any list or equivalent list,".

(6) At the end of paragraph 7 add sub-paragraph (c)-

"(c)if the contractor is a corporate optician, information on whether any of its directors-

- (i) has any criminal convictions in the United Kingdom;
- (ii) has been bound over following a criminal conviction in the United Kingdom;
- (iii) has accepted a police caution in the United Kingdom;
- (iv) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a fixed penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
- (v) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
- (vi) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
- (vii) 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;
- (viii) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body;
- (ix) is to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
- (x) is the subject of any investigation by another Local Health Board or equivalent body which might lead to his or her removal from any list or equivalent list;
- (xi) has been removed, contingently removed or suspended from, refused admission to, or conditionally

included in any list or equivalent list,

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

(7) Yn lle paragraff 10 rhodder y paragraff canlynol-

"10. If the ophthalmic medical practitioner or optician is not in the Local Health Board's ophthalmic list, the name of any Local Health Board or equivalent body in any of whose lists or equivalent lists he or she is included, or from any of whose lists or equivalent lists he or she has been removed or contingently removed or is currently suspended, or to any of whose lists or equivalent lists he or she has been refused admission or conditionally included, with an explanation as to why, and particulars of any outstanding or deferred application for inclusion in the ophthalmic list, or any other list of a Local Health Board or equivalent body, with the name of the Local Health Board or equivalent body in question."

(8) Ar ôl paragraff 11 ychwaneger y paragraff canlynol-

"11A. Where he or she 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, 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."

(9) Ym mharagraff 13 rhodder yr is-baragraffau canlynol yn lle is-baragraff (c)-

"(c) supply the information in this Schedule; and

(d) neither to provide nor assist in the provision of general ophthalmic services in the area of another Local Health Board or equivalent body from whose ophthalmic list, supplementary list or equivalent list he or she has been removed, except where that removal was at his or her request or in accordance with regulation 10(7) or 21(12) of the Supplementary List Regulations, or regulation 9(2) of these Regulations, without the consent, in writing, of that Local Health Board or equivalent body."

(10) Ar ôl paragraff 14 ychwaneger y paragraff canlynol-

"15. In the case of a corporate optician, paragraphs 2, 3 and 5 will not apply, but it must also give details of its registration as a company."

included in any list or equivalent list,

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

(7) For paragraph 10 substitute the following paragraph-

" 10. If the ophthalmic medical practitioner or optician is not in the Local Health Board's ophthalmic list, the name of any Local Health Board or equivalent body in any of whose lists or equivalent lists he or she is included, or from any of whose lists or equivalent lists he or she has been removed or contingently removed or is currently suspended, or to any of whose lists or equivalent lists he or she has been refused admission or conditionally included, with an explanation as to why, and particulars of any outstanding or deferred application for inclusion in the ophthalmic list, or any other list of a Local Health Board or equivalent body, with the name of the Local Health Board or equivalent body in question."

(8) After paragraph 11 add the following paragraph-

" 11A. Where he or she 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, 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."

(9) In paragraph 13 substitute for sub-paragraph (c) the following sub-paragraph-

"(c) supply the information in this Schedule; and

(d) neither to provide nor assist in the provision of general ophthalmic services in the area of another Local Health Board or equivalent body from whose ophthalmic list, supplementary list or equivalent list he or she has been removed, except where that removal was at his or her request or in accordance with regulation 10(7) or 21(12) of the Supplementary List Regulations, or regulation 9(2) of these Regulations, without the consent, in writing, of that Local Health Board or equivalent body."

(10) After paragraph 14 add the following paragraph-

"15. In the case of a corporate optician, paragraphs 2, 3 and 5 will not apply, but it must also give details of its registration as a company."

## Darpariaethau Trosiannol

41.-(1) Rhaid i optegydd corfforaethol y mae ei enw wedi ei gynnwys ar restr offthalmig Bwrdd Iechyd Lleol ar 31 Ionawr 2006, ac nad yw'r optegydd hwnnw eisoes wedi hysbysu'r Bwrdd Iechyd Lleol hwnnw o unrhyw fater sy'n codi ar neu cyn y diwrnod hwnnw, pryd y mae'n ofynnol i'r optegydd corfforaethol ei hysbysu ynghylch y Rheoliadau hyn, a rhaid i'r optegydd corfforaethol hysbysu'r Bwrdd Iechyd Lleol o unrhyw fater o'r fath erbyn 1 Awst 2006.

(2) Caiff unrhyw gontractwr-

- (a) a enwyd ar restr offthalmig y Bwrdd Iechyd Lleol fel practis symudol ar 31 Ionawr 2006; neu
- (b) oedd â'i enw wedi ei gynnwys ar restr offthalmig y Bwrdd Iechyd Lleol ac sydd wedi darparu gwasanaethau symudol yn ei ardal yn union cyn 1 Chwefror 2006,

barhau i wneud hynny tan 1 Mai 2006, ac os yw'r contractwr yn dymuno parhau i ddarparu gwasanaethau symudol yn ardal y Bwrdd Iechyd Lleol hwnnw ar ôl y dyddiad hwnnw, rhaid i'r contractwr wneud cais erbyn 1 Mai 2006 i'r Bwrdd Iechyd Lleol hwnnw i wneud trefniadau gyda'r contractwr i ddarparu gwasanaethau symudol.

(3) Os yw'r contractwr hwnnw yn gwneud cais yn unol â pharagraff (2), caiff y contractwr barhau i ddarparu gwasanaethau symudol yn ardal y Bwrdd Iechyd Lleol hwnnw, yn unol â'r rheoliad hwn, hyd nes bydd y Bwrdd Iechyd Lleol yn penderfynu gwneud trefniadau gyda'r contractwr neu beidio.

(4) Cyn 1 Awst 2006, yn ogystal â'r weithdrefn a nodir ym mharagraff 9(2) o Atodlen 1 i'r Rheoliadau Offthalmig, caiff cais gan gontractwr o dan baragraff 9(1) o'r Atodlen honno gael ei lofnodi gan ymarferydd meddygol offthalmig neu optegydd-

- (a) sydd â'i enw wedi ei gynnwys ar restr atodol neu restr offthalmig; ac
- (b) sy'n gyflogedig gan y contractwr hwnnw, cyn belled â bod yr ymarferydd yn enwi yn y cais-
  - (i) y Bwrdd Iechyd Lleol y mae enw'r ymarferydd wedi ei gynnwys ar ei restr atodol; a'r
  - (ii) contractwr y mae'n lofnodi ar ei ran.

## Transitional provisions

41.-(1) A corporate optician whose name is included in the ophthalmic list of a Local Health Board on 31 January 2006, which has not already notified that Local Health Board of any matter arising on or before that day of which these Regulations require notification by a corporate optician, must notify that Local Health Board of any such matter by 1 August 2006.

(2) Any contractor-

- (a) who was named in the ophthalmic list of the Local Health Board as a mobile practice on 31 January 2006; or
- (b) whose name was included in the ophthalmic list of the Local Health Board and provided mobile services in its area immediately before 1 February 2006,

may continue to do so until 1 May 2006 and, if the contractor wishes to continue to provide mobile services in the area of that Local Health Board after that date, the contractor must apply by 1 May 2006 to that Local Health Board to make arrangements with the contractor to provide mobile services.

(3) If that contractor makes an application in accordance with paragraph (2), the contractor may continue to provide mobile services in the area of that Local Health Board, pursuant to this regulation, until such time as that Local Health Board determines whether or not to make arrangements with the contractor.

(4) Before 1 August 2006, in addition to the procedure laid out in paragraph 9(2) of Schedule 1 to the Ophthalmic Regulations, a claim by a contractor under paragraph 9(1) of that Schedule may be signed by an ophthalmic medical practitioner or optician-

- (a) whose name is included in a supplementary list or an ophthalmic list; and
- (b) who is employed by that contractor, provided that he or she identifies on that claim-
  - (i) the Local Health Board in whose supplementary list his or her name is included; and
  - (ii) the contractor on whose behalf he or she is signing.

### RHAN 3

#### Diwygiadau Dilyniadol i'r Rheoliadau Ffioedd a Thaliadau

##### Dehongliad

42. Yn y Rhan hon ystyr "Rheoliadau Ffioedd a Thaliadau" ("*Charges and Payments Regulations*") yw Rheoliadau'r Gwasanaeth Iechyd Gwladol (Ffioedd a Thaliadau Optegol) 1997(1).

##### Diwygio rheoliad 1 o'r Rheoliadau Ffioedd a Thaliadau

43.-(1) Diwygir rheoliad 1(2) o'r Rheoliadau Ffioedd a Thaliadau (ganwi, cychwyn a dehongli) yn unol â darpariaeth ganlynol y rheoliad hwn.

(2) Rhodder y diffiniad canlynol yn y lle priodol yn nhrefn yr wyddor-

""supplementary list" ("*rhestr atodol*") means the list prepared by a Local Health Board under regulation 3 of the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006;".

##### Diwygio rheoliadau 4 a 6 o'r Rheoliadau Ffioedd a Thaliadau.

44.-(1) Diwygir rheoliadau 4 a 6 o'r Rheoliadau Ffioedd a Thaliadau yn unol â darpariaethau canlynol rheoliad hwn.

(2) Yn rheoliad 4(1)(b) (cwblhau a defnyddio taleb - prawf golwg) a 6(1) (taliad i gleifion mewn perthynas â phrawf golwg) ar ôl "ophthalmic list" ym mhob lle mae'n digwydd ym mhob un o'r rheoliadau hynny mewnosoder "or supplementary list" .

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(2)

31 Ionawr 2006

Llywydd y Cynulliad Cenedlaethol

(1) O.S.1997/818.

(2) 1998 p.38.

### PART 3

#### Consequential Amendments to the Charges and Payments Regulations

##### Interpretation

42. In this Part the "Charges and Payments Regulations" ("*Rheoliadau Ffioedd a Thaliadau*") means the National Health Service (Optical Charges and Payments) Regulations 1997(1).

##### Amendment regulation 1 of the Charges and Payments Regulations

43.-(1) Regulation 1(2) of the Charges and Payments Regulations (citation, commencement and interpretation) is amended in accordance with the following provision of this regulation.

(2) Insert the following definition in the appropriate place in the alphabetical order-

""supplementary list" ("*rhestr atodol*") means the list prepared by a Local Health Board under regulation 3 of the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006;".

##### Amendment of regulations 4 and 6 of the Charges and Payments Regulations.

44.-(1) Regulations 4 and 6 of the Charges and Payments Regulations are amended in accordance with the following provisions of this regulation.

(2) In regulations 4(1)(b) (completion and use of voucher- sight test) and 6(1) (payment to patients in respect of sight test) after "ophthalmic list" in each place it occurs in each of those regulations insert "or supplementary list" .

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2)

31 January 2006

The Presiding Officer of the National Assembly

(1) S.I.1997/818

(2) 1998 c.38



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