

SL(6)793 – The National Health Service (Performers Lists) (Wales) Regulations 2026

Background and Purpose

These Regulations (“the 2026 Regulations”) revoke and replace the National Health Service (Performers Lists) (Wales) Regulations 2004.

The Regulations seek to modernise arrangements for the performers lists to support their efficient operation and administration whilst maintaining public safety.

Procedure

Senedd annulment procedure.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following 21 points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2 provides a definition for the “armed forces” with reference to the Armed Forces Act 2006. As the Armed Forces Act 2006 is a lengthy and detailed Act, the Welsh Government is asked to confirm why the reader is not directed to section 374 of that Act in order to assist the reader.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Reference to the Dentists Act 1984 is made throughout the Regulations, but the term is not defined. The Welsh Government is asked to confirm why it decided not to use the definition “the 1984 Act” for the Dentists Act 1984.

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2 provides a definition for “equivalent body” with reference to a Health Authority, NHS England, a Primary Care Trust, a Health and Social Care Board, a Health and Social Services Board, and a Health Board. Primary Care Trust is also referred to in the definition of



"services list". No meaning is provided for any of these titles, therefore the Welsh Government is asked to confirm how these bodies should be defined and why this is not reflected in the Regulations.

4. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 2, in the definition of "equivalent body", there is a difference between the English and Welsh text. In the English text, there is a conjunction "or" after paragraph (b)(iii) of the definition, but there is no conjunction in the corresponding place in the Welsh text. In addition, it could be argued that the conjunction is superfluous in the English text or that it should appear after paragraph (c)(ii) if it is viewed as necessary. Also, in the Welsh text, the definition of "corff cyfatebol" ("equivalent body") has become merged with the definition immediately before it which is the definition of "Cofrestrydd Ymarfer Cyffredinol" ("GP Registrar").

5. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 2 provides a definition for "originating event" with reference to a conviction, investigation, proceedings, suspension and disqualification, amongst other terms. No context is provided for these words, for example, what would a conviction be for, who or what would be the subject of the investigation, etc. The Welsh Government is asked to provide further information to put these words into context, perhaps with reference to the relevant provisions in the Regulations, and explain why this is not reflected in the Regulations.

6. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 2, in paragraph (a) of the definition of "period of emergency", in the Welsh text, the term "emergency" should be noted in English in quotation marks in the phrase "(meaning of "emergency")" because it is only defined in English in section 1 of the Civil Contingencies Act 2004. In addition, in regulation 27(3), in the Welsh text, the term "acceptable programme for provisionally registered doctors" should be repeated in English after the words that correspond to "within the meaning" because it has only been defined in English by section 10A of the 1983 Act. This also occurs in regulation 33, in the definition of "scheme", in paragraph (a), where the term "general dental services contract" should be repeated in English in quotation marks after the words that correspond to "within the meaning" because it has only been defined in English by section 57(2) of the 2006 Act.

7. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 2, in the definition of "supplementary list", there is a difference between the English and Welsh text. In the English text, the title of the Regulations in the reference is noted as "the National Health Service (General Medical Services Supplementary List) (Wales)



Regulations 2002". But in the Welsh text, the meaning of "(Wales)" is missing from the title of those Regulations. In this regard, the omission of the meaning of "(Wales)" appears to be an historical error in the Welsh text of the original title of those Regulations which has never been corrected (see regulation 1(1) of S.I. 2002/1882 (W. 191)).

8. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 4(1)(a), the phrase "application for inclusion in a medical performers list, satisfy the requirements of regulation 29" has been expressed in the Welsh text as "application for inclusion of a practitioner in a medical performers list, satisfy the requirements of regulation 29". This also occurs in the Welsh text of regulation 4(1)(b) in relation to a dental performers list and the requirements of regulation 37. However, this is potentially problematic because "practitioner" is defined as either a medical practitioner or a dental practitioner. But only a medical practitioner could be included in a medical performers list under regulation 29 and only a dental practitioner could be included in a dental performers list under regulation 37. Therefore, the defined terms "medical practitioner" and "dental practitioner" rather than "practitioner" should have been used in regulation 4(1)(a) and (b) respectively. In addition, it is inconsistent with the approach taken in the Welsh text of regulation 5(1)(a) and (b) where the same problem does not arise because the phrases "inclusion in a medical performers list" and "inclusion in a dental performers list" have been expressed by "i gael ei gynnwys mewn rhestr cyflawnwyr meddygol," and "i gael ei gynnwys mewn rhestr cyflawnwyr deintyddol," respectively. The same issue arises in the Welsh text of regulation 29(6), where the phrase "inclusion in the GP Registrar" is expressed as "inclusion of a practitioner in the GP Registrar" but it should be limited to "a medical practitioner".

9. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 5(9)(b) states that a practitioner may perform primary services until the end of a period of 3 months, starting on the date on which the Local Health Board receives the application for inclusion on a performers list from the practitioner. However, it is not clear how the practitioner is to know when the Local Health Board received their application. It may have assisted a practitioner if the Regulations provided for when an application would be deemed to have been received from the practitioner. The Welsh Government is asked to confirm how regulation 5(9)(b) is to work in practice.

10. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 5(11), there is a difference between the English and Welsh text. In the English text, it notes "or the certified copy of the enhanced criminal record certificate as required by paragraph (5)" but the meaning given by the Welsh text is "or the enhanced criminal record certificate as required by paragraph (5)". It is also inconsistent because the Welsh text of



paragraph (5) in regulation 5 has correctly expressed the meaning of “certified copy” by using the term “copi ardystiedig”.

11. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulations 6(1)(b) and (c) and 17(1)(b), (3)(a) and (b), and 5(b), as well as paragraph 4(4) of Schedule 1 to the Regulations, impose duties on the NHS Counter Fraud Authority and NHS Resolution to provide information regarding practitioners who have applied to be on a performers list. Both of these bodies are special health authorities which appear to be reserved authorities. The Welsh Government is asked to confirm the basis upon which it has imposed these duties on these authorities and whether any discussion with the UK Government was required and/or has been undertaken.

12. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulations 8 and 16 refer to the “relevant Part”. This term is defined for the purpose of regulation 3, but not for regulations 8 and 16. It is therefore not clear which Parts “the relevant Part” is referring to in regulations 8 and 16.

13. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 8(4)(d) states that a practitioner’s application for inclusion on a performers list must be refused if, in a case to which regulation 10(4) applies, the practitioner has not updated the practitioner’s application in accordance with the requirements of that regulation. However, regulation 10 does not appear to require the practitioner to provide any update to their application. The only requirement imposed on the practitioner by regulation 10 is to confirm whether they wish to proceed with their application and provide any additional information required. Confirmation is therefore sought from the Welsh Government as to whether updating an application means confirming whether the practitioner wishes to proceed and/or providing any additional information that may be required and, if so, whether it would have been clearer to specifically state that.

14. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 10(5)(a) requires a Local Health Board to make a decision in accordance with regulation 8 and regulation 31(1) or 39(1) or (2), as the case may be, as to whether or not to grant a practitioner’s application. However, regulation 31(2) also appears to be relevant to the decision making process so the Welsh Government is asked to confirm whether regulation 31(2) should be referred to in regulation 10(5)(a). The same point also applies to regulation 19(2)(d)(i).

15. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements



Regulation 11(13) requires a practitioner to participate in an appraisal system except where the relevant provision provides otherwise. No meaning is given for the phrase “relevant provision” so it is not possible to determine the correct reference. Regulation 4(11)(a) defines this term for the purpose of regulation 4(3)(f) but it is not clear whether the term is intended to have the same meaning in regulation 11(13).

16. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 13(2) requires a Local Health Board to notify the practitioner of any decision it makes in relation to the any failure of the practitioner to comply with conditions, together with notification of the right of review or appeal. Unlike other similar provisions in the regulations, no timeframe is provided within which the Local Health Board is required to provide the notification, and no requirements are imposed as to informing the practitioner when and how they can exercise the right of appeal. The Welsh Government is asked to explain the reason for this different approach.

17. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 16(7)(b) requires periods of service to be disregarded when determining a 12 month period during which services must be performed. References are made to “whole-time service”, “national emergency”, and “reserve liability” but it is not clear what these terms are intended to mean. The Welsh Government is asked to explain the meaning of these terms and why they are not set out in the Regulations.

18. Standing Order 21.2(vii) – that there appear to be inconsistencies between the meaning of its English and Welsh texts

In regulation 33, in the Welsh text, the definition of “AaGIC” (“HEIW”) is not listed in the correct place according to Welsh alphabetical order in the list of definitions.

19. Standing Order 21.2(viii) – that it uses gender specific language

Regulations 37(3)(a)(i) refers to “his or her approved trainer”. Similarly, regulation 39(2)(b) makes reference to “he or she” giving notice to withdraw from a list. The Welsh Government is asked to confirm why it did not use gender neutral language in these provisions.

20. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Paragraph 4(3)(a) of Schedule 1 to the Regulations states that a Local Health Board may remove an emergency registered practitioner from the list if it is justified, having checked, amongst other matters, information provided under regulation 4(5). However, paragraph 2(1)(c) of Schedule 1 disapplies regulation 4(5) in relation to emergency registered practitioners. The Welsh Government is asked to confirm whether the reference to regulation



4(5) in paragraph 4(3)(a) of Schedule 1 is correct and, if so, how it is proposed to work in practice.

21. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Paragraph 3(a) of Schedule 2 to the Regulations substitutes wording in the Schedule to the Functions of Local Health Boards and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (Wales) Regulations 2006 (“the 2006 Regulations”), to replace “National Health Service (Performers Lists) (Wales) Regulations 2004” with “National Health Service (Performers Lists) (Wales) Regulations 2026”. However, the Schedule to the 2006 Regulations does not refer to the National Health Service (Performers Lists) (Wales) Regulations 2004 and appears to instead refer to the National Health Service (Performers Lists) Regulations 2004.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

17 March 2026



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee