

Government Response: *The National Health Service (Performers Lists) (Wales) Regulations 2026*

Technical Scrutiny point 1: The Welsh Government consider that the definition of “armed forces” is sufficiently clear as there is only one definition for “the regular forces” and “the reserve forces” in section 374 of the Armed Forces Act 2006.

Technical Scrutiny point 2: The Welsh Government note and accept that using the definition “the 1984 Act” would be in line with acceptable drafting practice. However, the references to the Dentists Act 1984 are not unclear or uncertain.

Technical Scrutiny point 3: The Welsh Government are in each case of the view that the meaning of the terms used is sufficiently clear and we do not consider that the drafting gives rise to any ambiguity.

Technical Scrutiny point 4: The Welsh Government agree that the conjunction “or” is not required after paragraph (b)(iii) in the English text however this does not alter the legal effect of that provision. There is also a line space missing between the definitions of “Cofrestrydd Ymarfer Cyffredinol” (“GP Registrar”) and “corff cyfatebol” (“equivalent body”) in the Welsh text. The Welsh Government will explore the possibility of amendments by correction slip with the SI Registrar.

Technical Scrutiny point 5: The Welsh Government can confirm that the terms used in the definition of “originating event” are intended to bear their ordinary meanings and are given sufficient context by the provisions in which the defined term is used. Further elaboration in the definition itself is not considered necessary.

The term is used at regulation 4(2)(l). This provision requires practitioners who were directors of a body corporate at the time of the originating event to provide details of any list from which that body has been removed, in relation to which that body has been refused inclusion, in which it has been included subject to conditions, or from which it is currently suspended. It is clear from the context of the provision that the “originating event” is the removal from, refused inclusion in, conditional inclusion in or suspension from the list. The same applies at regulations 8(3)(g) and 17(2)(h), (4)(f) and (6)(g).

Where the term is used at regulation 4(7), if the practitioner was a director of a body corporate at the time of the originating event, the practitioner must declare any convictions, proceedings, investigations, removals, suspensions, refusals, conditional inclusions or disqualifications, with specific context for these words provided in the provision. It is clear from the context that “originating event” refers to the events specified in the provision. The same applies at regulations 10(1)(b), (e), (g), (i) and (j) and 11(6).

Technical Scrutiny point 6: The Welsh Government do not accept the reporting point in relation to regulation 2. The reference to “(meaning of “emergency”)” is a reference to the heading of section 1 of the Civil Contingencies Act 2004 (rather than a reference to the definition). Usual practice for such references to headings in

English-only legislation is to provide a courtesy translation. We think it would be clear to readers that “argyfwng” corresponds to “emergency”.

Regulations 27(3) and 33 are references to definitions, where the English term is usually included. Whilst this does not affect the legal effect, it will be considered for amendment when an appropriate opportunity arises.

Technical Scrutiny point 7: Whilst the Welsh Government accept that in the case of these Regulations there is a difference between the English and Welsh text this is due to an historical error in the Welsh title to the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002. The title of the Welsh text is Rheoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) 2002 and is therefore missing “(Cymru)” in the title.

These Regulations refer to the title of the Welsh text of the 2002 Regulations as made and published and the Welsh Government consider that the reference is sufficiently clear (including having regard to the SI Number in the relevant footnotes in the Welsh and English texts).

Technical Scrutiny point 8: The Welsh Government note the reporting point and as the Committee states, it is clear from the requirements of regulations 29 and 37 that only a medical practitioner can be included in a medical performers list and that only a dental practitioner can be included in a dental performers list, and from the context of regulation 29(6) that only a medical practitioner will be able to provide evidence of inclusion in the GP Register.

Technical Scrutiny point 9: The Welsh Government note the reporting point and do not consider additional provision requiring the Local Health Board to acknowledge receipt is necessary. This maintains the position in the 2004 Regulations which was not raised as problematic as part of the stakeholder engagement process, indicating that it functions adequately in practice.

Technical Scrutiny point 10: The Welsh Government consider these provisions work as drafted because regulation 5(11) references regulation 5(5), which specifies that a certified copy is required. However, we agree it would be clearer to amend the Welsh text to include “certified copy” in regulation 5(11). The Welsh Government will consider this for amendment when an appropriate opportunity arises.

Technical Scrutiny point 11: The Welsh Government can confirm that the basis upon which the duties have been imposed on these bodies is sections 49(3)(k) and 63(3)(k) of the National Health Service (Wales) Act 2006. The National Health Service (Wales) Act 2006 is an Act of the UK Parliament and as such is not constrained by legislative competence, meaning that there is no restriction in relation to placing duties on these bodies in respect of Wales.

Technical Scrutiny point 12: The Welsh Government agree that a definition of the “relevant Part” in relation to these provisions would aid clarity. This will be considered for amendment when an appropriate opportunity arises.

Technical Scrutiny point 13: The Welsh Government have assumed that this reporting point refers to regulation 8(4)(e). The Welsh Government can confirm and believe it is sufficiently clear, that updating an application under regulation 8(4)(e) means confirming whether the practitioner wishes to proceed and providing any additional information that may be required.

Technical Scrutiny point 14: The Welsh Government can confirm that regulation 31(2) is relevant to regulations 10(5)(a) and 19(2)(d)(i) and should be referred to in both instances. This will be considered for amendment when an appropriate opportunity arises.

Technical Scrutiny point 15: The Welsh Government agree that a definition of the “relevant provision” would aid clarity. This will be considered for amendment when an appropriate opportunity arises.

Technical Scrutiny point 16: The Welsh Government can confirm that the policy intention is that the Regulations provide for different notification requirements depending on the context. For example, the requirement for a decision to suspend with immediate effect is immediate notification. In the case of a determination of failure to comply with conditions and a resulting decision to vary or impose new conditions, a strict notification deadline is not considered necessary. The notification requirement at regulation 13(2) only applies to cases where the decision is to vary or impose new conditions. Where the Local Health Board is considering removing the practitioner from the list, the stricter notification requirements at regulation 16(8) to (11) apply. These include notification of the action being considered, the grounds, the opportunity to make representations and the opportunity for an oral hearing. The decision must be notified within 7 days, together with an explanation of how to exercise the right of appeal. These notification requirements are not considered necessary where the decision is to vary or impose new conditions. The requirements at regulation 13(2) are considered to be sufficient.

Technical Scrutiny point 17: The Welsh Government considers that the terms used are sufficiently clear in the context of the armed forces.

Technical Scrutiny point 18: The Welsh Government note the Committee’s comments and agree that this term should come first in the list of definitions. However, this is correct in the text as made, although incorrect upon publishing with the SI Registrar. Steps will be taken to address this matter with the SI Registrar.

Technical Scrutiny point 19: The Welsh Government accept that gender neutral language should have been used in both these provisions in the English text. Although the meaning is sufficiently clear, we will consider amendments at an appropriate opportunity.

Technical Scrutiny point 20: The Welsh Government accept the reporting point and this will be considered for amendment when an appropriate opportunity arises, however, in the meantime we consider that the provision functions as drafted.

The Local Health Board have a discretion to remove an emergency registered practitioner after having checked any information provided with the application, including any information provided under regulation 4(5). This provision still functions where the emergency registered practitioner is not required to provide information under regulation 4(5). The requirement is to check “any” information provided under regulation 4(5) “as far as reasonably practicable”. The Local Health Board is therefore not precluded from exercising the discretionary power to remove where no information is provided under regulation 4(5) as a result of the disapplication.

Technical Scrutiny point 21: The Welsh Government accept this reporting point, although the error is in the text of the 2006 Regulations, which should refer to “the National Health Service (Performers Lists) (Wales) Regulations 2004”, but incorrectly reference “the National Health Service (Performers Lists) Regulations 2004”. These Regulations cite the correct Regulations, rather than the actual, incorrect reference in the 2006 Regulations. The Welsh Government will explore the possibility of an amendment by correction slip with the SI Registrar.