

Explanatory Memorandum to the National Health Service (Primary Medical Services) (Miscellaneous Amendments) (Wales) Regulations 2010.

This Explanatory Memorandum has been prepared by Community Primary Care and Health Services Policy Directorate of the Health and Social Services Directorate General and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the National Health Service (Primary Medical Services) (Miscellaneous Amendments) (Wales) Regulations 2010.

Edwina Hart

Minister for Health and Social Services

10 March 2010

1. Description

These Regulations amend the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 (GMS Regulations) and the National Health Service (Performers Lists) (Wales) Regulations 2004 (Performers Lists Regulations). The amendments update the various Regulations to reflect policy developments and associated legislative changes introduced since the original Regulations were made, or last amended.

2. Matters of special interest to the Constitutional Affairs Committee

None

3. Legislative background

The Regulations will be made pursuant to powers under sections 44(1), 47, 49 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations amend the Statutory Instruments, as detailed above, that control the way in which primary medical services are delivered pursuant to the provisions contained in Part 4 of the National Health Service (Wales) Act 2006.

There have been a number of policy initiatives and amendments to other legislation introduced, which as a consequence require amendments to the GMS Regulations and the Performers Lists Regulations. They mainly cover the following matters:-

- The coming into force of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (SI 2010/234)
- The introduction of the Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (SI 2010/137)
- Changes to the provision of medical reports to the Department for Work and Pensions

In addition, there are minor updating amendments.

This instrument will follow the negative resolution procedure.

4. Purpose & intended effect of the legislation

General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (SI 2010/234)

The above Order, made on 10 February 2010 and coming into force on 1 April 2010, abolishes the Postgraduate Medical Education and Training Board, transfers its functions to the General Medical Council and makes transitional and consequential amendments. Associated with this Order is the Postgraduate Medical Education and Training Order of Council 2010, coming into force on 1 April 2010, which makes provision in respect of eligibility for entry in the General Practitioner Register and the Specialist Register kept by the General Medical Council. The amendments made by these Regulations

update the GMS Regulations as a consequence of the Postgraduate Medical Education and Training Order of Council 2010.

Similarly, the amendment made by these Regulations to the Performers Lists Regulations is an updating amendment required as a consequence of the Postgraduate Medical Education and Training Order of Council 2010.

Social Security (Medical Evidence) and Statutory Sick Pay (Medical Evidence) (Amendment) Regulations 2010 (SI 2010/137)

The above Regulations amend the rules concerning the completion of a “doctor’s statement” (medical certificate) which is used to assist a person to claim certain health related social security benefits – such as Employment and Support Allowance.

These amending regulations ensure that patients continue to receive these statements free of charge.

Telephone numbers

The amendments regulate the use of telephone numbers which charge the patient more than the equivalent cost of calling a geographical number. The Regulations do not prohibit practices from using specific number ranges – they remain free to use non-geographical number ranges such as 084, providing that patients are not charged more than the equivalent cost of calling a geographical number to do so.

Changes to the provision of medical reports to the Department for Work and Pensions (DWP)

The Department for Work and Pensions has changed its procedure whereby further medical evidence is sought in respect of patients for whom a GP has provided, or has refused to provide, a medical certificate. Previously medical practitioners employed or engaged by DWP, or employed or engaged by an external organisation that has a contract with DWP, could request such further clinical information from GPs, as could DWP officers acting on the medical practitioner’s behalf. The Regulations make amendments to provide that GPs must also supply that information, on request, to a nurse, physiotherapist or occupational therapist employed or engaged by DWP, or employed or engaged by an external organisation that has a contract with DWP. GPs must also supply the clinical information, on request, to a DWP officer acting on one of these health care professional’s behalf.

Before providing such information a contractor must be satisfied that the patient concerned has consented to the disclosure. The contractor may rely on an assurance in writing from the DWP officer, medical practitioner, nurse, physiotherapist or occupational therapist that the patient’s consent (whether oral or written) has been obtained.

Minor amendments

These are:

- introduction of provisions to prevent those who have been removed from being concerned in the management or control of any body under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session) from holding a GMS contract.
- the references to the systems on which contractors may hold computerised patient records, with the approval of their Local Health Board, have been updated. The standard with which systems must comply is General Medical Practice Computer Systems Minimum Systems Specification (MSS) Version 2.0.
- clarifying amendments as a consequence of the abolition of the Family Health Services Appeal Authority

5. Consultation

Consultation has been undertaken with the General Practitioners Committee (Wales) on the draft amending regulations. They have raised no objection to the content.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared for this instrument as the amendments update the various Regulations to include associated legislative changes introduced since the original Regulations were made, or last amended. The amendments do not have a major policy impact. Consequently, there is no impact on businesses, charities or voluntary bodies.