

**2013 No.**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**DOCTORS**

**The Medical Profession (Responsible Officers) (Amendment)  
Regulations 2013**

<i>Made</i> - - - -	***
<i>Laid before Parliament</i>	***
<i>Coming into force</i> - -	***

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 45A of the Medical Act 1983(a) and section 120 of the Health and Social Care Act 2008(b).

The Secretary of State has consulted the Scottish Ministers and the Welsh Ministers in accordance with section 45E(2) of the Medical Act 1983.

**Citation commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Medical Profession (Responsible Officers) (Amendment) Regulations 2013 and shall come into force on *[insert date]*.

(2) In these Regulations—

“the 2010 Regulations” means the Medical Profession (Responsible Officers) Regulations 2010(c).

**Amendment to Part 1 (General)**

**2.**—(1) Part 1 of the 2010 Regulations is amended as follows.

(2) In regulation 1(2) for the definition “NHS body” substitute—

““NHS body” means any of the bodies listed in paragraphs 2 to 6, 15 to 17 and 25C of the Schedule to these Regulations;”.

**Amendment to Part 2 (Responsible Officers)**

**3.**—(1) Part 2 of the 2010 Regulations is amended as follows.

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(a) 1983 c. 54; sections 45A to 45F (Part V Responsible Officers) were inserted by section 119 of the Health and Social Care Act 2008 (c. 14); ‘prescribed’ means prescribed by Regulations; and the ‘appropriate authority’ means the Secretary of State in relation to England and Wales and Scotland.

(b) c. 14.

(c) S.I. 2010/2841.

(2) For regulation 5 substitute—

“5.—(1) Subject to the following provisions of this regulation, every designated body must nominate or appoint a responsible officer.

(2) The NHSCB shall nominate or appoint a sufficient number of responsible officers to ensure that each responsible officer so appointed has the capacity to carry out their responsibilities in regulation 11 and 13.

(3) When a responsible officer nominated or appointed in accordance with paragraph (1) or (2) ceases to hold that position, subject to paragraph (4) the designated body must nominate or appoint a replacement as soon as reasonably practicable.

(4) When a responsible officer nominated or appointed in accordance with paragraph (2) ceases to hold that position, the designated body is not required to nominate or appoint a replacement if there remains a sufficient number of responsible officers appointed or nominated under that paragraph.

(5) Subject to paragraph (6), a body listed in Part 2 of the Schedule to these Regulations which is a designated body by virtue of regulation 4(3) is not required to nominate or appoint a responsible officer if, and for so long as, there is no prescribed connection under regulation 10 between that body and any medical practitioner.

(6) Paragraph (5) does not apply where a medical practitioner would otherwise have, but for the application of regulation 12, a prescribed connection with a designated body under regulation 10.”.

(3) In regulation 9(1)(a) (nomination of responsible officer by the Secretary of State) after “responsible officer” insert “or a sufficient number of responsible officers”.

(4) In regulation 10 (connection between designated bodies and medical practitioners)—

(a) before paragraph (1)(a) insert—

“(za) the designated body is the Faculty of Medical Leadership and Management and the medical practitioner holds any of the posts of the National Medical Director or National Deputy Medical Directors.”;

(b) after paragraph (1)(a)(i) insert—

“(ia) a Local Education and Training Board and the medical practitioner is a doctor in training who is a member of a foundation or speciality training programme managed by that Board; or”;

(c) in paragraph (1)(b)—

(i) for “where sub-paragraph (a) does not apply” substitute “where none of sub-paragraphs (za) or (a) apply”,

(ii) after “medical performers list” insert “or ophthalmic performers list”;

(d) for paragraph (1)(b)(i) substitute—

“(i) regulations xx and xx of the National Health Service (Performers Lists) Regulations 2013(a),”;

(e) after paragraph (1)(b)(iii) insert—

“(ba) where none of sub-paragraph (za) (a) or (b) apply, the designated body is Public Health England and the medical practitioner is employed by a local authority in England;

(bb) where none of sub-paragraph (za), (a), (b) or (ba) apply the designated body is the Pathology Delivery Board and the medical practitioner is on the Home Office Register of Forensic Pathologists;(b)”;

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(a) S.I. 2013/XXXX.

(b) Admission to the Home Office Register of Forensic Pathologists is controlled by the Pathology Delivery Board and in particular by its sub committee, Registration and Training, which reviews all applications on behalf of the Board.

- (f) for paragraph (c) substitute—  
“(c) where none of sub-paragraphs (za) (a), (b), (ba) or (bb) apply, the medical practitioner is employed by the designated body;”;
- (g) for regulation (f) substitute—  
“(f) the designated body owns or manages a hospital and the medical practitioner has responsibility for treating patients in that hospital in accordance with practising privileges for that hospital;”;
- (h) for regulation (g) substitute—  
“(g) where none of the preceding sub-paragraphs apply, the designated body is—  
(i) the Faculty of Occupational Medicine,  
(ii) the Faculty of Public Health,  
(iii) the Faculty of Pharmaceutical Medicine,  
(iv) the Faculty of Homeopathy,  
(v) the Faculty of Medical Leadership and Management, or  
(vi) the British College of Aesthetic Medicine,  
and the medical practitioner is a member of that body, or where the medical practitioner is a member of more than one of those bodies, that body which the medical practitioner has been a member of for the longest period.”.

(5) In regulation 11 (responsibilities of responsible officers: prescribed connection under regulation 10) for paragraph (6) substitute—

“(6) Where a responsible officer is nominated or appointed in accordance with regulation 5(2) (NHS Commissioning Board: sufficient number of responsible officers) the division of responsibilities under paragraph (1) for each responsible officer is to be determined by the NHS Commissioning Board.”.

(6) For regulation 12 (connection between designated bodies and medical practitioners who are responsible officers) substitute—

**“Connection between designated bodies and medical practitioners who are responsible officers**

**12.**—(1) A registered medical practitioner who is a responsible officer for a body referred to in column 1 of the table has, for the purposes of section 45B of the Act, a prescribed connection with the body, Department or persons referred to in the corresponding entry in column 2 of that table.

**Table**

<i>Column 1</i> <i>(Body of which a registered medical practitioner is a responsible officer)</i>	<i>Column 2</i> <i>(Body with which there is a prescribed connection)</i>
<b>1.</b> Any Government department or executive agency of a Government department in England.	<b>1.</b> Department of Health
<b>2.</b> Any non-departmental public body in England except the NHS Commissioning Board.	<b>2.</b> Department of Health.
<b>3.</b> Local Education and Training Boards.	<b>3.</b> Health Education England.
<b>4.</b> Any body in England not falling within	<b>4.</b> NHS Commissioning Board.

the preceding entries except—

- (a) NHS Commissioning Board,
- (b) Faculty of Medical Leadership and Management.

5. The NHS Commissioning Board, in respect of a medical practitioner appointed or nominated under regulation 5(2), who holds any of the posts of National Medical Director or National Deputy Medical Director.

5. The Faculty of Medical Leadership and Management.

6. The NHS Commissioning Board in respect of a medical practitioner appointed or nominated under regulation 5(2), and not falling in the preceding entry.

6. The NHS Commissioning Board.

7. Any body in Scotland.

7. the Scottish Ministers.

8. Any body in Wales.

8. the Welsh Ministers.

(2) A medical practitioner who is a responsible officer for—

- (a) the Department of Health;
- (b) the Scottish Ministers;
- (c) the Welsh Ministers; or
- (d) [the Faculty of Medical Leadership and Management](#);

does not have a prescribed connection with a designated body under these Regulations.”.

(7) In regulation 13 (responsibilities of responsible officers: prescribed connection under regulation 12) for paragraph (6) substitute—

“(6) [Where a responsible officer is nominated or appointed in accordance with regulation 5\(2\) \(NHS Commissioning Board: sufficient number of responsible officers\) the division of responsibilities under paragraph \(1\) for each responsible officer is to be determined by the NHS Commissioning Board.](#)”.

(8) In regulation 14 (Provision of resources to responsible officers) in the first line of paragraph (1) for “the responsible officer” substitute “[each responsible officer](#)”.

### **Amendments to Part 3 (additional responsibilities of responsible officers: England)**

4.—(1) Part 3 of the 2010 Regulations is amended as follows.

(2) In regulation 16 (additional responsibilities of responsible officers: prescribed connection under regulation 10)—

(a) after paragraph (2)(a) insert—

“(aa) [ensure that medical practitioners have sufficient knowledge of English language necessary for the work to be performed in a safe and competent manner;](#)”.

(b) for paragraph 2(d) substitute—

“(d) [where the designated body is the NHS Commissioning Board, manage admission to the performers list in accordance with the National Health Service \(Performers Lists\) Regulations 2013;](#)”.

(3) In regulation 18 (duty to have regard to guidance)—

- (a) in paragraph (b) for “National Clinical Assessment Service division of the National Institute for Health and Clinical Excellence” substitute “[National Clinical Assessment Service division of the NHS Litigation Authority](#)”(a),
- (b) after paragraph (b) insert—
  - “(c) [guidance given by the NHS Commissioning Board to the extent that it relates to the responsible officer’s duties under regulation 16\(1\)\(aa\).](#)”.
- (4) In regulation 19 (provision of resources to responsible officers) in the first line of paragraph (1) for “the responsible officer” substitute “[each responsible officer](#)”.

**Amendments to the Schedule (Designated Bodies)**

5.—(1) Part 1 of the Schedule (designated bodies) to the 2010 Regulations is amended as follows.

- (2) In paragraph 1 for “Primary Care Trust” substitute “[NHS Commissioning Board](#)”.
- (3) In paragraph 3 for “National Health Service trusts” substitute “[National Health Service trusts other than Ambulance Trusts](#)”.
- (4) In paragraph 4 for “NHS foundation trusts” substitute “[NHS foundation trusts other than Ambulance Trusts](#)”.
- (5) Omit paragraph 5 ([Strategic Health Authorities](#)).
- (6) After paragraph 14 insert—

“[14A. Local Education and Training Boards.](#)

[14B. Pathology Delivery Board.](#)”.

6.—(1) Part 2 of the Schedule (designated bodies which employ or contract with medical practitioners) to the 2010 Regulations is amended as follows.

- (2) For paragraph 20(b) substitute—
  - “(b) [locum agencies in England and Wales which supply medical locums as part of the Government Procurement Service\(b\).](#)”.
- (3) After paragraph (25) insert—

“[25A. Any organisation engaged in providing the services of medical practitioners to work as resident medical officers in independent hospitals.](#)

[25B. Any organisation engaged in providing medical defence services to medical practitioners in respect of claims for medical negligence or professional misconduct.](#)

[25C. Ambulance Trusts.](#)

[25D. The British College of Aesthetic Medicine.](#)

[25E. The Faculty of Homeopathy.](#)”.

Signed by authority of the Secretary of State for Health

*Name*

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(a) The National Clinical Assessment Service division was transferred from the National Patient Safety Agency to the National Institute for Health and Clinical Excellence (NICE) on 1st April 2012 by virtue of SI 2012/476, and will be transferred from NICE to the NHS Litigation Authority on 1st April 2013.

(b) The Government Procurement Service had replaced the NHS Purchasing and Supply Agency’s national framework agreement which was transferred to Buying Solutions, an executive agency of the Office of Government Commerce, in October 2009.

Date

Parliamentary Under Secretary of State  
Department of Health