

Subsidiary Legislation made under s.22.

Medical and Health (Responsible Officers) Rules 2014

LN.2014/210

Commencement **21.11.2014**

ARRANGEMENT OF RULES

Rule

1. Title and commencement.
2. Interpretation.
3. Designated bodies.
4. Duty to nominate or appoint responsible officers.
5. Duty to nominate or appoint additional responsible officers in cases of conflict of interest or appearance of bias.
6. Conditions for nomination or appointment of responsible officers and for remaining as responsible officers.
7. Nomination or appointment of one person as responsible officer for two or more designated Bodies.
8. Nomination of responsible officer by the Minister.
9. Connection between designated bodies and medical practitioners.
10. Responsibilities of responsible officers: prescribed connection under rule 9.
11. Provision of resources to responsible officers.
12. Duty to have regard to guidance.
13. Additional responsibilities of responsible officers: prescribed connection under rule 9.
14. Duty to have regard to guidance.
15. Transitional provisions.

SCHEDULE DESIGNATED BODIES

1997-25

Medical and Health

2014/210 Medical and Health (Responsible Officers) Rules 2014

In exercise of the powers conferred upon him under section 22 of the Medical and Health Act the Minister has made the following Rules-

Title and commencement.

1. These Rules may be cited as the Medical and Health (Responsible Officers) Rules 2014 and come into operation on the day of publication.

Interpretation.

2. In these Rules—

“Act” means the Medical and Health Act, 1997;

“General Medical Council” means the General Medical Council established under the laws of the United Kingdom;

“Gibraltar Health Authority” means that body established under section 3 of the Medical (Gibraltar Health Authority) Act, 1987;

“Minister” means the Minister with responsibility for health.

Designated bodies.

3.(1) The bodies listed in the Schedule are designated bodies.

(2) The Minister may amend the Schedule by Notice in the Gazette.

Duty to nominate or appoint responsible officers.

4.(1) Subject to the following provisions of this rule, every designated body must nominate or appoint a responsible officer.

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

(3) A body listed in the Schedule is not required to nominate or appoint a responsible officer if, and for so long as, there is no prescribed connection under rule 9 between that body and any medical practitioner.

(4) In the case of a designated body that is not established in Gibraltar, the requirements of subrules (1) and (3) shall be satisfied if the designated body has equivalent requirements imposed upon it under the law where it is established.

Duty to nominate or appoint additional responsible officers in cases of conflict of interest or appearance of bias.

5.(1) A designated body must nominate or appoint a second responsible officer where–

- (a) the designated body has nominated or appointed a responsible officer in accordance with rule 4; and
- (b) there is a conflict of interest or an appearance of bias between that responsible officer and a medical practitioner in respect of whom that responsible officer has responsibilities under rule 10 (“the relevant practitioner”).

(2) In considering whom to nominate or appoint as a second responsible officer in accordance with subrule (1), the designated body must ensure that there is no conflict of interest or appearance of bias between the person to be nominated or appointed and the relevant practitioner.

(3) Where a second responsible officer has been nominated or appointed in accordance with subrule (1), that responsible officer, and not the first responsible officer, has the responsibilities specified in rule 10 in relation to the relevant practitioner.

Conditions for nomination or appointment of responsible officers and for remaining as responsible officers.

6.(1) The following conditions must be satisfied in order for a person to be nominated or appointed as a responsible officer of a designated body under rule 4 or 5–

- (a) the person must be a medical practitioner; and
- (b) the person must, at the time of appointment, have been a medical practitioner throughout the previous 5 years, and for this purpose “medical practitioner” means a person who was fully registered under the Act.

(2) A responsible officer must continue to be a medical practitioner in order to remain as a responsible officer.

(3) The requirements of this rule are satisfied in relation to a responsible officer that is appointed by a designated body established outside Gibraltar if equivalent requirements are imposed under the law of the place of establishment and the nominated or appointed

responsible officer continues to satisfy those requirements whilst that person is a responsible officer.

(4) In computing time under subrule (1) any period of time during which a medical practitioner was registered under the relevant provisions in the United Kingdom and before registration under the Act shall reckon towards that period.

Nomination or appointment of one person as responsible officer for two or more designated Bodies.

7. The same person may be nominated or appointed as the responsible officer for two or more designated bodies where each designated body concerned is satisfied that-

- (a) the person satisfies the conditions in rule 6;
- (b) the person has the capacity to carry out their responsibilities under rule 10 for each body; and
- (c) no conflict of interest is likely to arise.

Nomination of responsible officer by the Minister.

8. Subject to the following provisions of this regulation, the Minister may nominate a responsible officer for a designated body where-

- (a) the designated body has failed to nominate or appoint a responsible officer or a sufficient number of responsible officers in accordance with rule 4 or 5; or
- (b) the designated body has nominated or appointed as a responsible officer a person who does not meet the conditions in rule 6.

Connection between designated bodies and medical practitioners.

9.(1) Subject to the following provisions of this rule, a designated body has a prescribed connection with a medical practitioner in the following circumstances-

- (a) the designated body is a postgraduate medical deanery and the medical practitioner is a doctor in training who is a member of a foundation or specialty training programme managed by that deanery; or
- (b) where paragraph (a) does not apply, the medical practitioner is employed by the designated body;

- (c) the designated body owns or manages a hospital and the medical practitioner has practising privileges in respect of that hospital;
- (d) where none of the preceding paragraphs applies, the designated body is–
 - (i) the Faculty of Occupational Medicine,
 - (ii) the Faculty of Public Health, or
 - (iii) the Faculty of Pharmaceutical Medicine,
 and the medical practitioner is a member of that body.

(2) Where a medical practitioner would otherwise have a prescribed connection with more than one designated body under subrule (1), the prescribed connection is as follows–

- (a) in any case where subrule (1)(a) (doctor in training) applies, the prescribed connection is in accordance with that subrule;
- (b) in any case where subrule (1)(b) (medical practitioner employed by a designated body) applies, the prescribed connection is in accordance with that paragraph (b);
- (c) where a prescribed connection with more than one designated body arises under subrule (1)(b)–
 - (i) the medical practitioner has a prescribed connection with the designated body for whom the practitioner carries out most of their clinical practice; and
 - (ii) if there is no significant difference in the amount of clinical practice which the practitioner carries out for each designated body–
 - (aa) if one of the designated bodies concerned is the Gibraltar Health Authority, the medical practitioner has a prescribed connection with that body; and
 - (bb) in any other case, the medical practitioner has a prescribed connection with the designated body that the medical practitioner elects;
- (d) in any other case–

- (i) the medical practitioner has a prescribed connection with the designated body for whom the practitioner carries out most of their clinical practice; and
- (ii) if there is no significant difference in the amount of clinical practice which the practitioner carries out for each designated body–
 - (aa) if one and only one of the designated bodies concerned is the Gibraltar Health Authority, the medical practitioner has a prescribed connection with that body; and
 - (bb) in any other case, the medical practitioner has a prescribed connection with the designated body that the medical practitioner elects.

Responsibilities of responsible officers: prescribed connection under rule 9.

10.(1) Subject to subrule (6), the responsible officer for a designated body has the following responsibilities relating to the evaluation of the fitness to practise of every medical practitioner who has a prescribed connection with that body by virtue of rule 9.

- (2) The responsibilities referred to in subrule (1) are–
 - (a) to ensure that the designated body carries out regular appraisals on medical practitioners in accordance with subrule (3);
 - (b) to ensure that there are established and implemented, procedures to investigate concerns about a medical practitioner's fitness to practise raised by patients or staff of the designated body or arising from any other source;
 - (c) where appropriate, to refer concerns about the medical practitioner to the General Medical Council;
 - (d) where a medical practitioner is subject to conditions imposed by, or undertakings agreed with, the General Medical Council, to monitor compliance with those conditions or undertakings;
 - (e) to make recommendations to the General Medical Council about medical practitioners' fitness to practise;
 - (f) to maintain records of practitioners' fitness to practise evaluations, including appraisals and any other investigations or assessments.

(3) The responsible officer must ensure that appraisals carried out under subrule (2)(a) involve obtaining and taking account of all available information relating to the medical practitioner's fitness to practise in the work carried out by the practitioner for the designated body, and for any other body, during the appraisal period.

(4) Procedures under subrule (2)(b) must include provision for the medical practitioner's comments to be sought and taken into account where appropriate.

(5) Responsible officers must co-operate with the General Medical Council and any of its committees, or any persons authorised by the General Medical Council, in connection with the exercise by them of any of their functions.

Provision of resources to responsible officers.

11.(1) Subject to subrule (2), each designated body must provide each responsible officer nominated or appointed for that body with sufficient funds and other resources necessary to enable the officer to discharge their responsibilities for that body under rules 10 and 13.

(2) Where the designated body does not employ its responsible officer, the body must provide the resources referred to in subrule (1) to-

- (a) where the responsible officer is employed, the employer of the officer; and
- (b) in any other case, the responsible officer.

(3) Where a medical practitioner has a prescribed connection with a designated body by virtue of rule 9(1)(c) or (d), the medical practitioner must provide the designated body with sufficient funds necessary to enable the responsible officer nominated or appointed for that body to discharge their responsibilities under rule 10 relating to that medical practitioner.

(4) The designated body must determine the amount of the sufficient funds referred to in subrule (3) and provide to the medical practitioner a written demand for the sum required to be paid.

Duty to have regard to guidance.

12. In discharging their responsibilities under rule 10, responsible officers shall have regard to the following—

- (a) guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures, to the extent that it relates to the nomination or appointment of responsible officers or their prescribed responsibilities; and

- (b) any guidance issued by the Minister.

Additional responsibilities of responsible officers: prescribed connection under rule 9.

13.(1) Where a responsible officer has responsibilities under rule 10 in respect of a medical practitioner who has a prescribed connection with a designated body in accordance with rule 9, the responsible officer has the following additional responsibilities.

(2) In relation to the entry by the designated body into contracts of employment or for the provision of services with medical practitioners, the responsible officer must—

- (a) ensure that medical practitioners have sufficient knowledge of the English language necessary for the work to be performed in a safe and competent manner;
- (b) ensure that medical practitioners have qualifications and experience appropriate to the work to be performed;
- (c) ensure that appropriate references are obtained and checked;
- (d) take any steps necessary to verify the identity of medical practitioners; and
- (e) maintain accurate records of all steps taken in accordance with paragraphs (b) to (d).

(3) In relation to monitoring medical practitioners' conduct and performance, the responsible officer must—

- (a) review regularly the general performance information held by the designated body, including clinical indicators relating to outcomes for patients;
- (b) identify any issues arising from that information relating to medical practitioners, such as variations in individual performance; and
- (c) ensure that the designated body takes steps to address any such issues.

(4) In relation to ensuring that appropriate action is taken in response to concerns about medical practitioners' conduct or performance, the responsible officer must—

- (a) ensure that investigations with appropriately qualified investigators are initiated;
- (b) ensure that procedures are in place to address concerns raised by patients or staff of the designated body or arising from any other source;

- (c) ensure that any investigation into the conduct or performance of a medical practitioner takes into account any other relevant matters within the designated body;
- (d) consider the need for further monitoring of the practitioner's conduct and performance and ensure that this takes place where appropriate;
- (e) ensure that a medical practitioner who is subject to procedures under this paragraph is kept informed about the progress of the investigation;
- (f) ensure that procedures under this paragraph include provision for the medical practitioner's comments to be sought and taken into account where appropriate;
- (g) where appropriate—
 - (i) take any steps necessary to protect patients;
 - (ii) recommend to the medical practitioner's employer that the practitioner should be suspended or have conditions or restrictions placed on their practice; and
- (h) identify concerns and ensure that appropriate measures are taken to address these, including but not limited to—
 - (i) requiring the medical practitioner to undergo training or retraining;
 - (ii) offering rehabilitation services;
 - (iii) providing opportunities to increase the medical practitioner's work experience;
 - (iv) addressing any systemic issues within the designated body which may have contributed to the concerns identified;
 - (v) maintain accurate records of all steps taken in accordance with this subrule.

Duty to have regard to guidance.

14. In discharging their responsibilities under rule 13, responsible officers must have regard to any guidance given by the Minister.

Transitional provisions.

1997-25

Medical and Health

2014/210 **Medical and Health (Responsible Officers) Rules 2014**

15. These Rules do not apply to a medical practitioner to whom rule 8 of the Medical and Health (Licence to Practise and Revalidation) Rules 2014 applies.

**SCHEDULE
DESIGNATED BODIES**

Rules 3, 4

Designated bodies

The Gibraltar Health Authority
Postgraduate medical deaneries established in the United Kingdom
Bodies which employ or contract with medical practitioners