
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 208

The National Health Service (General Dental Services) (Scotland) Regulations 2010

PART II

**GENERAL ARRANGEMENTS FOR
PROVISION OF GENERAL DENTAL SERVICES**

Terms of service

3.—(1) The arrangements which a Health Board is required by section 25 of the Act to make for the provision of general dental services shall incorporate—

- (a) in the case of a contractor (other than a salaried dentist) undertaking to provide general dental services (other than emergency dental services) the terms of service contained in Parts I, II, III, IV and V of Schedule 1;
- (b) in the case of a dentist undertaking to provide general dental services (other than emergency dental services) as a salaried dentist, the terms of service contained in Parts I, II, III, IV and VI of Schedule 1;
- (c) in the case of the provision of emergency dental services, the terms of service contained in Parts I and III, paragraphs 20, 22, 23, 24, 25, 27 and 31 of Part IV and paragraphs 46(1), 47(1) and 48 of Part VI of Schedule 1; and
- (d) in the case of a dentist or contractor (as the case may be) who has indicated in its application that it will only provide orthodontic treatment, the terms of services which apply to them in (a), (b) or (c), but only insofar as they are relevant to the provision of orthodontic treatment.

(2) A contractor shall ensure that any dentist employed or engaged by it to provide or assist in the provision of general dental services shall comply with the terms of service referred to in paragraph (1); any breach of the terms of service by such a dentist shall be deemed to be a breach of the terms of service by that contractor.

(3) A Health Board may, after consultation with an area dental committee and with the approval of the Scottish Ministers, make special arrangements with a contractor whereby the contractor undertakes to provide general dental services throughout a part of the Health Board's area specified in the arrangements, at suitable centres in the area or at the homes of persons requiring such services.

Dental list

4.—(1) Each Health Board shall prepare and maintain in accordance with these Regulations a list, called "the dental list", of those persons—

- (a) (i) who pursuant to the provisions of regulation 5 have undertaken to provide general dental services in the Health Board's area; or
- (ii) who are approved by the Health Board to assist in the provision of general dental services in the Health Board's area; and

- (b) who are not disqualified from inclusion in the dental list by virtue of—
- (i) the provisions of sections 29B(2)(1), 30(2)(2), or (5)(3), 32A(3)(4) or 32B(1)(5) of the Act;
 - (ii) a corresponding decision;
 - (iii) being within a category of person specified in the provisions of regulation 7 (grounds for refusal of application);
 - (iv) regulation 26(1) (practitioner subject to inquiry) of the National Health Service (Tribunal) (Scotland) Regulations 2004(6).
- (2) The dental list shall be divided into two parts—
- (a) the first part of which shall be of dentists and bodies corporate who have undertaken to provide general dental services under arrangements with the Health Board in terms of these Regulations; and
 - (b) the second part of which shall be of dentists who are approved by the Health Board to assist in the provision of such services.
- (3) The first part of the dental list shall be further divided into two sub-parts—
- (a) sub-part A of which shall comprise a list of dentists and bodies corporate who have undertaken to provide general dental services in the Health Board's area; and
 - (b) sub-part B of which shall comprise a list of dentists and bodies corporate who have undertaken only to provide emergency dental services in the Health Board's area.
- (4) Sub-part A of the first part of the dental list shall contain the following information:—
- (a) the name of each person and the date on which the name was included in that part of the dental list;
 - (b) the addresses of all the practice premises in the Health Board's area where each person has undertaken to provide general dental services, or in the case of a mobile surgery, the address to which correspondence in connection with such provision should be sent;
 - (c) details of the days on which and the hours between which general dental services will normally be available at such premises, or in the case of any mobile surgery particulars of the places regularly visited by the contractor and the times of such visits;
 - (d) the name of any other person in association with whom a person named on the dental list provides general dental services;
 - (e) in the case of a dentist, the date of that dentist's first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (f) in the case of a dentist, the dentist's professional registration number, details of the dental qualification held by that dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists;
 - (g) whether a person named on the dental list provides only orthodontic treatment;
 - (h) whether there is access to the practice premises without the use of stairs;
 - (i) whether there is wheelchair access to the practice premises;

(1) Section 29B(2) was added by the 1999 Act, section 58, and amended by the 2002 Act, Schedule 2, paragraph 2, the 2004 Act, Schedule 1, paragraph 1, and the 2005 Act, section 26(4) and Schedule 3.

(2) Section 30(2) was substituted by the 1999 Act, section 58 and amended by the 2005 Act, Schedule 3.

(3) Section 30(5) was substituted by the 1999 Act, section 58 and amended by the 2005 Act, Schedule 3.

(4) Section 32A(3) was inserted by the National Health Service (Amendment) Act 1995 (c.31), section 8, amended by the 1999 Act, section 65 and Schedule 4, paragraph 51 and the 2005 Act, Schedule 3.

(5) Section 32B(1) was substituted by the 1999 Act, section 65 and Schedule 4, paragraph 52, and the 2005 Act, Schedule 3.

(6) S.S.I. 2004/38 as amended by S.S.I. 2004/122, 271, 2005/335, 2006/122 and 2009/319.

- (j) whether each person named on that part of the dental list has indemnity cover against claims relating to the practice of dentistry including cover for other persons whose work that person directs, or who is employed or engaged by that person in relation to the provision of general dental services.
- (5) Sub-part B of the first part of the dental list shall contain the following information:—
- (a) the name of each person and the date on which the name was included in that part of the dental list;
 - (b) in the case of a dentist, the date of that dentist’s first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (c) in the case of a dentist, the dentist’s professional registration number, details of the dental qualification held by that dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists;
 - (d) the address(es) of the hospital or premises at which the dentist or body corporate will provide emergency dental services in the Health Board’s area;
 - (e) whether each person named on that part of the dental list has indemnity cover against claims relating to the practice of dentistry, including cover for other persons who are employed or engaged by that person in relation to the provision of emergency dental services.
- (6) The second part of the dental list shall contain the following information:—
- (a) the name of each dentist and the date on which the name was included in that part of the dental list;
 - (b) the professional registration number of the dentist;
 - (c) the date of the dentist’s first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (d) details of the dental qualification held by the dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists; and
 - (e) whether the dentist assists in the provision of orthodontic treatment only.

Application for inclusion in the dental list and notification of changes

5.—(1) Subject to paragraphs (2) to (4), an application by a person for inclusion in a dental list shall be made in writing to the Health Board and shall include the information, declarations, certificate or application, undertakings and consents specified in Schedule 2 and—

- (a) shall state whether the applicant is a person registered in the register of dentists or a body corporate;
- (b) shall, if the application relates to sub-part A of the first part of the dental list, include the information, declarations, certificate or application, undertakings, and consents specified in Part IA of Schedule 2;
- (c) shall, if the application only relates to sub-part B of the first part of the dental list, include the information, declarations, certificate or application, undertakings and consents specified in Part IB of Schedule 2;
- (d) shall, if the application relates to the second part of the dental list, include the information, declarations, certificate or application, undertakings and consents specified in Part II of Schedule 2;

- (e) may include the information specified in Part III of Schedule 2; and
 - (f) shall, in the case of an application by a body corporate, be signed by all the directors of that body corporate.
- (2) An application may specify other Health Boards on whose dental lists the applicant wishes to be included, and such an application shall include an undertaking to provide or assist in providing general dental services, or emergency dental services (as the case may be), and comply with the relevant paragraphs of the terms of service, in the areas of the Health Boards so specified.
- (3) Before determining an application a Health Board shall—
- (a) check the information provided by the applicant and any documents which the applicant is required to produce in terms of these Regulations;
 - (b) examine references obtained from the referees nominated by the applicant;
 - (c) obtain any enhanced criminal record certificate required in respect of the application if such certificate was not included with the application;
 - (d) check with the Agency whether the applicant has any record of fraud, or is currently, or at any time has been, the subject of any investigation by the Agency, which information the Agency shall supply unless it would prejudice any criminal proceedings or the prevention, detection or investigation of fraud; and
 - (e) notify any other Health Boards on whose dental list the applicant has specified in the application the applicant seeks to be included.
- (4) If a Health Board considers that further information or documents, in addition to the documents, information and undertakings provided by the applicant in accordance with Schedule 2, are necessary to determine the application, the Health Board shall require the applicant to provide such further information or documents before it determines the application.
- (5) If the Health Board considers that it requires to meet with the applicant, or where the applicant is a body corporate, any of its directors, in order to properly determine the application it shall require the applicant, member or director (as the case may be), to attend a meeting at a reasonable time and place to discuss the application and the applicant or director (as the case may be) shall comply with such a reasonable request.
- (6) A Health Board may, if it considers that the proposed practice premises of an applicant should be inspected, inspect such premises.
- (7) Where a Health Board has not inspected the proposed practice premises of an applicant, either in response to the application from the applicant, or in response to the inclusion of any other applicant, the Health Board shall inspect the proposed practice premises before determining the application.
- (8) Any inspection made pursuant to paragraphs (6) or (7) shall be made not later than 14 days after the date of receipt of the application.
- (9) Where information about an applicant's previous convictions, including information disclosed by means of an enhanced criminal record certificate, or any other information or documents disclosed or provided to, or investigations carried out by, the Health Board in terms of this regulation, leads the Health Board to consider that there may be grounds for referral to the Tribunal, then the Health Board may refer the matter to the Tribunal.
- (10) Where an applicant for inclusion in a Health Board's dental list is already included on another Health Board's dental list, and has specified such inclusion in the application, notwithstanding paragraphs (3) and (4), the Health Board to whom the application has been made may add the name of the applicant to its dental list without further inquiry.

(11) In the case of an application to a Health Board by a dentist or body corporate already included in either part of that Health Board's dental list, that dentist or body corporate shall only be required to provide the information required by paragraphs (1), (2), (3) and (4) insofar as—

- (a) such information has not already been supplied to the Health Board; or
- (b) the information has changed since it was provided.

(12) Any dentist who is undertaking vocational training may make an application to a Health Board to be included in the first part of its dental list not more than 4 months before that dentist is due to complete the training.

(13) An application under paragraph (12) shall contain the information, declarations, certificate or application, undertakings and consents mentioned in paragraph (1), except that required by sub-paragraphs 1(d) and 3 of Part 1A of Schedule 2.

(14) An applicant under paragraph (12) shall provide the information required by paragraphs 1(d) and 3 of Part 1A of Schedule 2 as soon as the applicant has been notified by NHS Education for Scotland of his or her vocational training number, and the Health Board shall then, provided—

- (a) the requirements of paragraphs (12) and (13) have been complied with;
- (b) the Health Board has not sought further information, references or documentation under paragraph (4); and
- (c) the Health Board has not deferred the application under regulation 8,

decide the application within 7 days of receiving the information required under paragraphs 1(d) and 3 of Part 1A of Schedule 2.

(15) Subject to paragraph (16), a dentist who wishes to have his or her name included in sub-part A of the first part of the dental list but who does not have a vocational training number shall apply to NHS Education for Scotland for a vocational training number, and the application for a vocational training number shall be dealt with in accordance with regulation 2 of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004(7) before the Health Board determines the application under regulation 7(3).

(16) Paragraph (15) shall not apply to a dentist who will only provide orthodontic treatment.

(17) A dentist or body corporate which has made an application for inclusion in a Health Board's dental list shall notify the Health Board which is considering the application in writing if there is a change to any of the information which that dentist or body corporate has provided in terms of this regulation as soon as such change occurs.

General provision relating to the dental list

6.—(1) Where any corresponding decision is made in England, Wales or Northern Ireland by an equivalent body that—

- (a) a person is to be included in an equivalent list subject to conditions;
- (b) a person is to be removed from an equivalent list contingent on conditions;
- (c) a person is to be disqualified from an equivalent list subject to conditions; or
- (d) any conditions so imposed are varied,

a Health Board shall impose those conditions in relation to the provision by that person of general dental services in the Health Board's area.

(2) The Health Board may make such modifications of the conditions referred to in paragraph (1) as it considers necessary for the conditions to have the like effect in relation to Scotland as they do in relation to England, Wales or Northern Ireland, but only if the Health Board has previously given

the person concerned notice in writing of the proposed modifications and an opportunity to make representations about them.

- (a) (3) (a) A dentist or body corporate may not provide general dental services in a Health Board's area unless the name of that dentist or body corporate is included in the first part of that Health Board's dental list;
 - (b) a dentist or body corporate may not provide general dental services in a Health Board area, (other than emergency dental services) unless the name of that dentist or body corporate is included in sub-part A of the first part of that Health Board's dental list;
 - (c) subject to regulation 33(9) a dentist may not assist with the provision of general dental services in a Health Board's area unless the name of that dentist is included in the first or second part of that Health Board's dental list;
 - (d) sub-paragraph (c) does not apply to a dentist who is undertaking vocational training for the first three months of that training;
 - (e) a dentist or body corporate may not provide general dental services (except insofar as those services are limited to orthodontic treatment) where that dentist or body corporate has indicated in its application that it will only provide orthodontic treatment.
- (4) The dental list may, provided that the dentist consents to their inclusion, also give particulars of any languages, other than English, spoken by a dentist.
- (a) (5) (a) A dentist or body corporate which is included in a Health Board's dental list shall notify the Health Board in writing if there is a change to any of the information which that dentist or body corporate has provided in terms of regulation 5 together with that changed information within 7 days of the occurrence of the relevant change;
 - (b) if the change to the information is such that, had the information been part of an application it would have required any of the declarations, certificate or application, undertakings and consents required by regulation 5 to be supplied, then the dentist or the body corporate (as the case may be) must supply such declarations, certificate or application, undertakings and consents either at the same time as it supplies the information in terms of sub-paragraph (a) or by such date as the Health Board may determine;
 - (c) if the dentist or body corporate is included in the dental list of more than one Health Board, the dentist or body corporate shall send the notification and information referred to in sub-paragraph (a) and the declarations, certificate or application, undertakings and consents required in terms of sub-paragraph (b) to each Health Board on whose dental lists that dentist or body corporate is included.
- (6) Subject to paragraph (8) the Health Board shall—
- (a) send to the Scottish Ministers, the Agency, the SDPB and the area dental committee a copy of its dental list as soon as possible after its preparation;
 - (b) amend its dental list in respect of any change or addition notified to the Health Board in terms of paragraph (5) which affects the entries which that list is required to contain; and
 - (c) notify the Scottish Ministers, the Agency, the SDPB and the area dental committee of any alteration to its dental list within 7 days of the date on which the alteration is made.
- (7) The Health Board shall send an updated copy of its dental list each year to the SDPB, the area dental committee and, subject to paragraph (8), to the Scottish Ministers and the Agency.
- (8) Where the Health Board considers that only parts of, or only some of the alterations to, the dental list are likely to concern the Scottish Ministers and the Agency, it may instead of sending a copy of the whole list or notifying them of all the alterations, send them a copy only of those parts or notify them only of those alterations.

(9) The Health Board shall inspect at intervals not exceeding three years, all practice premises of every contractor who is included on the dental list for its area (where such premises are located within its area).

Grounds for refusal of application

7.—(1) The grounds on which a Health Board must refuse to include a dentist or body corporate in its dental list are that—

- (a) the applicant is not a dentist, or body corporate;
- (b) if the applicant is a dentist, the applicant has been convicted in the British Islands of murder;
- (c) the applicant is disqualified;
- (d) the applicant is suspended from the dental list or equivalent list;
- (e) the applicant has not updated the application in accordance with regulation 8(4);
- (f) the applicant has been refused entry to, or removed from, an equivalent list by an equivalent body on grounds corresponding (whether or not exactly) to a condition for disqualification and, at the time of the application, the decision of that equivalent body remains in force;
- (g) if the applicant is a dentist, any order has been made or any direction given in terms of the Dentists Act 1984 that the applicant's registration in the register of dentists should be erased, removed or suspended, and at the time of the application, such order or direction remains in force;
- (h) if the applicant is a dentist who is also a medical practitioner, any order has been made or any direction given in terms of the Medical Act 1983(8) that the applicant's registration in the register of medical practitioners should be erased, removed or suspended, and at the time of the application, such order or direction remains in force;
- (i) if the applicant is a body corporate—
 - (i) the registration of any director of that body corporate in the register of dentists or the dental care professionals register (as the case may be) has been erased, removed or suspended and, at the time of the application, the erasure, removal or suspension remains in force; or
 - (ii) financial penalties have been imposed on the body corporate or on a director of the body corporate under section 43B of the Dentists Act 1984(9);
- (j) in the case of an application by a dentist for inclusion in sub-part A of the first part of the dental list, the dentist does not have a vocational training number;
- (k) if the dentist has withdrawn his or her name from—
 - (i) a dental list prepared under regulation 4 of the 1996 Regulations, or any equivalent list, in circumstances where the Secretary of State certified for the purposes of regulation 10(4) of the National Health Service (Superannuation) (Scotland) Regulations 1980(10), or as the case may be, regulation 8(7) of the National Health Service (Superannuation) Regulations 1980(11), that in the interests of the efficiency of general dental services the dentist should cease to provide such services;
 - (ii) a dental list prepared by any Health Board in terms of these Regulations, or under regulation 4 of the 1996 Regulations, in circumstances where the Secretary of State

(8) 1983 c.54.

(9) Section 43B was inserted by S.I. 2005/2011.

(10) S.I. 1980/1177 (now revoked).

(11) S.I. 1980/362 (now revoked).

or the Scottish Ministers certified for the purposes of regulation E3(1)(b) (in respect of the period before 1st December 2006) or regulation E3(2)(b)(ii) or E3A(2)(d)(ii) (in respect of the period from 1st December 2006) of the National Health Service (Superannuation) (Scotland) Regulations 1995(12) that in the interests of the efficiency of general dental services the dentist should cease to provide such services; or

(iii) an equivalent list in circumstances where the Secretary of State has certified for the purposes of regulation E3(1)(b) (in respect of the period before 1st December 2006) or regulation E3(2)(b)(ii) or E3A(2)(d)(ii) (in respect of the period from 1st December 2006), of the National Health Service Pension Scheme Regulations 1995(13), or the Department of Health, Social Services and Public Safety in Northern Ireland has certified for the purposes of regulation 14(1)(b) of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(14) that in the interests of efficiency of the service in which the dentist is employed the dentist's employment is terminated;

- (l) the Health Board is not satisfied that the applicant (if a dentist) has a knowledge of English which, in the interests of the applicant and of patients who may receive general dental services from the applicant, is necessary for providing, or assisting with the provision of, general dental services;
- (m) the applicant is employed by, is in an associateship agreement with, or intends (in the opinion of the Health Board) to be employed by, or in an associateship agreement with, a dentist or a dental body corporate that is disqualified at the time;
- (n) the applicant provides, or intends to provide services under a contract of service to a dentist or a dental body corporate that is disqualified at the time;
- (o) the applicant is a partner, or intends to be a partner of, a dentist or dental body corporate that is disqualified at the time;
- (p) the Health Board is not satisfied, after an inspection of the premises from where the applicant intends to provide general dental services, that the premises comply with the provisions of paragraph 42 of Schedule 1 which relate to the standards of premises and equipment required for the provision by a contractor of general dental services.

(2) Paragraph (1) is without prejudice to any duty on a Health Board not to add the applicant to a dental list by virtue of regulation 26 (practitioners subject to inquiry) of the National Health Service (Tribunal) (Scotland) Regulations 2004(15).

(3) When the Health Board has decided whether or not to include an applicant in its dental list, it shall, within 7 days, notify the applicant and any other Health Board which the applicant has specified in the application of that decision and if the Health Board has decided not to include the applicant, the grounds for the decision.

(4) When a Health Board has decided to include an applicant in a part or sub-part of its dental list and has notified another Health Board of that decision in accordance with paragraph (3), that other Health Board will not be required to comply with paragraphs (3) and (4) of regulation 5, and may include the applicant in that part or sub-part its dental list without further enquiry.

(12) S.I. 1995/365; regulations E3 and E3A were substituted for regulation E3 by S.S.I. 2006/561, regulation E3 was amended by S.S.I. 2008/226.

(13) S.I. 1995/300; regulations E3 and E3A were substituted for regulation E3 by S.I. 2006/2919, regulation E3 was amended by S.I. 2008/654.

(14) SR 1995 No. 95. Regulation 14(1)(b) was amended by SR 2002 No. 69.

(15) S.S.I. 2004/38 as amended by S.S.I. 2004/122, 271, 2005/335, 2006/122 and 2009/319.

Deferment of a decision on application

8.—(1) Without prejudice to the Health Board’s power under section 29 of the Act (the NHS Tribunal) to make representations to the Tribunal that an applicant meets a condition for disqualification, a Health Board may defer a decision on any application to be included in its dental list, where—

- (a) there are, in respect of the applicant, or if the applicant is a body corporate, any director of the applicant—
 - (i) criminal proceedings in the British Islands conviction in respect of which would be likely to lead to refusal to include the applicant or such director in, or the removal of the applicant or such director from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification, or
 - (ii) proceedings elsewhere in the world relating to conduct, which, if it had occurred in the British Islands, would constitute a criminal offence, the outcome of which would be likely to lead to refusal to include the applicant or such director in, or the removal of the applicant or such director from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification;
- (b) in respect of a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director, there are—
 - (i) criminal proceedings in the British Islands conviction in respect of which would be likely to lead to refusal to include the applicant in, or the removal of the applicant from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification, or
 - (ii) proceedings elsewhere in the world relating to conduct which, if it had occurred in the British Islands, would constitute a criminal offence, the outcome of which would be likely to lead to refusal to include the applicant in, or the removal of the applicant from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification;
- (c) the applicant or a body corporate of which the applicant is, or has in the preceding 6 months been, or was at the time of the originating events, a director, is the subject of an investigation or proceedings relating to the professional conduct of the applicant or the body corporate by any licensing or regulatory body (including one by the Agency or another Health Board or equivalent body) in the United Kingdom or elsewhere in the world, the outcome of which would be likely to lead to refusal to include in, or removal from, a dental list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification;
- (d) the applicant is a body corporate, any director of the applicant is the subject of an investigation or proceedings relating to the professional conduct of the applicant or such director by any licensing or regulatory body (including one by the Agency or another Health Board or equivalent body) in the United Kingdom or elsewhere in the world, the outcome of which would be likely to lead to refusal to include in, or removal from, a dental list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification;
- (e) a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director, or where the applicant is a body corporate,

any director of the body corporate, is suspended from any list by direction of the Tribunal or is suspended from an equivalent list;

- (f) the applicant, or where the applicant is a body corporate any director of the applicant, is being investigated by the Agency or other body in relation to any fraud, where the result, if adverse, would be likely to lead to the removal of the applicant or such director from the Health Board’s dental list if the applicant or such director were to be included in it;
 - (g) a body corporate, of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events a director, is being investigated by the Agency or other body in relation to any fraud, where the result, if adverse, would be likely to lead to the applicant’s removal from the Health Board’s dental list if the applicant were to be included in it;
 - (h) the Tribunal is considering an application from a Health Board for disqualification of the applicant or where the applicant is a body corporate any director of the applicant, or of a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director;
 - (i) the applicant or any director of the applicant is suspended from a list by a Health Board, or from an equivalent list by an equivalent body; or
 - (j) after an inspection of the premises under regulation 5(6) or (7) the Health Board provided the applicant with a reasonable period of time to carry out such work as the Health Board specified in order to ensure that the premises met the required standard to comply with the provisions of paragraph 42 of Schedule 1 which relate to the standards of premises and equipment required for the provision by a contractor of general dental services.
- (2) A Health Board may only defer a decision under paragraph (1) until the outcome of the relevant event mentioned in any of sub-paragraphs (a) to (j) of that paragraph is known.
- (3) The Health Board must notify the applicant that it has deferred a decision on the application and the grounds for the deferral.
- (4) Once the outcome of the relevant event mentioned in paragraph (1) is known, the Health Board shall notify the applicant in writing that the applicant must within 28 days of the date of the notification (or such longer period as the Health Board may agree)—
- (a) update the applicant’s application; and
 - (b) confirm in writing that the applicant wishes to proceed with the application,
- and the provisions of regulations, 5, 6 and 7 shall apply to the application.
- (5) Provided any additional information required by paragraph (4) has been received within the period specified in paragraph (4) or any longer period agreed, the Health Board shall notify the applicant as soon as possible—
- (a) that the application has been successful; or
 - (b) that the Health Board has decided to refuse the application and the grounds for that decision.
- (6) In this regulation, “the outcome of the relevant event” means the final determination of any proceedings (including proceedings pending the determination of which the applicant is suspended) or investigation referred to in paragraph (a) to (j).

Local directory of dentists

9.—(1) A Health Board may prepare and thereafter maintain a local directory of dentists which may contain, in respect of each dentist whose name is included in its dental list—

- (a) any information included in the dental list in respect of the dentist; and

- (b) any other information related to the provision or assistance with provision of general dental services which the Health Board has agreed with the area dental committee to be appropriate.

(2) Where a Health Board has agreed with the area dental committee that certain information should be included in the local directory of dentists, it may request in writing any dentist whose name is included in its dental list to provide the Health Board with such information as it relates to that dentist, and the dentist shall provide that information within 28 days of the date of the Health Board's request.

Requirements with which a dentist or body corporate included in a dental list must comply

- 10.**—(1) A dentist or body corporate included in a Health Board's dental list shall—
- (a) exercise a reasonable standard of professional and clinical judgement, behaviour, skill, knowledge and care towards patients who receive general dental services from that dentist or body corporate;
 - (b) comply with the terms of service appropriate to the part or sub-part of the dental list on which the name of the dentist or body corporate appears;
 - (c) comply with the undertakings specified in Schedule 2 appropriate to the part or sub-part of the dental list on which the name of the dentist or body corporate appears whether or not those undertakings were included in an application by the dentist or body corporate under regulation 5; and
 - (d) comply with any other requirement of these Regulations.

Suspension

11.—(1) If a Health Board is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a dentist or body corporate from its dental list in accordance with this regulation—

- (a) while it considers whether to remove that person from its dental list under regulation 12;
- (b) while it waits for a decision affecting that person of a court anywhere in the world, or of a licensing or regulatory body;
- (c) while it considers whether to refer that person to the Tribunal;
- (d) while it awaits a finding by the Tribunal or other equivalent body;
- (e) where it has decided to remove that person from its dental list but before that decision takes effect.

(2) In paragraph 1(b) “decision” means the final determination of the relevant proceedings, after any appeal or other review procedure has been exhausted.

(3) In a case falling within paragraph (1)(a) or (c), the Health Board must specify a period, not exceeding six months, as the period of suspension.

(4) In a case falling within paragraph (1)(b), the Health Board may specify that the dentist or body corporate (as the case may be) remains suspended after the decision referred to in that paragraph has been made for an additional period, not exceeding six months.

(5) In a case falling within paragraph (1)(d), the term of suspension may exceed six months.

(6) If the Health Board suspends a dentist or body corporate in a case falling within paragraph (1)(e) the suspension has effect from the date the Board informed that person of the suspension.

(7) The Health Board may extend the period of suspension under paragraph (3) or impose a further period of suspension under paragraph (4), so long as the aggregate period of suspension does not exceed 6 months.

(8) The effect of a suspension is that, while a dentist or body corporate is suspended under these Regulations, that person is to be treated as not being included in the dental list even though that person's name appears in it.

(9) The Health Board may at any time revoke the suspension and notify the dentist or body corporate (as the case may be) of its decision.

(10) Where a Health Board is considering suspending a dentist or body corporate or varying the period of suspension under this regulation, it shall give the dentist or body corporate (as the case may be)—

- (a) notice of any allegation against that person;
- (b) notice of what action it is considering and on what grounds; and
- (c) the opportunity to put that person's case at an oral hearing before the Health Board, on a specified day, provided that at least 24 hours' notice of the hearing is given.

(11) If the dentist or body corporate (as the case may be) does not wish to have an oral hearing or does not attend the oral hearing, the Health Board may suspend that person with immediate effect.

(12) If an oral hearing does take place, the Health Board shall take into account any representations made at the hearing before it reaches its decision.

(13) The Health Board may suspend the dentist or body corporate (as the case may be) with immediate effect following the hearing.

(14) The Health Board shall notify the dentist or body corporate (as the case may be) of its decision and the reasons for it (including any facts relied upon) within 7 days of making that decision.

(15) During a period of suspension, payments shall be made to or in respect of the dentist or body corporate (as the case may be) in accordance with regulation 26.

Removal from dental list

12.—(1) Subject to paragraph (2) where a Health Board has determined that a dentist whose name has been included in its dental list has died, the Health Board shall remove the dentist's name from the dental list with effect from the date of its determination.

(2) Where a dentist has died and—

- (a) for so long as the dentist's practice is carried on by the dentist's personal representatives, surviving spouse, surviving civil partner, or any of the children of the deceased dentist, or trustees on behalf of the personal representatives, surviving spouse, surviving civil partner or any of the children of the deceased dentist, ("the dentist's personal representatives") in accordance with the provisions of the Dentists Act 1984(16), and
- (b) the dentist's personal representatives have appointed for that purpose a dentist or body corporate whose name is included in sub-part A of the first part of the dental list of the Health Board,

the Health Board shall not remove the dentist's name from the dental list.

(3) Where a Health Board has determined that a dentist or body corporate whose name has been included in its dental list—

- (a) has ceased to be a dentist or body corporate entitled by virtue of section 43 of the Dentists Act 1984 to carry on the business of dentistry;
- (b) in the case of a dentist, has been convicted in the British Islands of murder;
- (c) is disqualified;

(16) 1984 c.24. Section 41 as relevantly amended by the Civil Partnership Act 2004 (c.33) Schedule 27 and by S.I. 2005/2011.

- (d) has been refused entry to, or removed from, an equivalent list by an equivalent body on grounds corresponding (whether or not exactly) to a condition for disqualification (and that refusal or removal is still in force);
- (e) in the case of a dentist, any order has been made or any direction given in terms of the Dentists Act 1984 that the dentist's registration in the register of dentists should be erased, removed or suspended and that erasure, removal or suspension is still in force (except where such order is an interim order or a direction is solely on the ground contained in section 27(2)(c)(17) of the Dentists Act 1984);
- (f) in the case of a dentist who is also a medical practitioner any order has been made or any direction given in terms of the Medical Act 1983(18) that person's registration in the register of medical practitioners should be erased, removed or suspended and that erasure, removal or suspension is still in force (except where such order is an interim order or a direction which relates to a health case (as health case is defined in section 35E of the Medical Act 1983));
- (g) in the case of a body corporate—
 - (i) the registration of any director of that body corporate in the register of dentists or the dental care professionals register (as the case may be) has been erased, removed or suspended and that erasure, removal or suspension is still in force (except where such an order is an interim order or a direction is solely on the ground contained in section 27(2)(c) of the Dentists Act 1984); or
 - (ii) financial penalties have been imposed on the body corporate or on a director of the body corporate under section 43B of the Dentists Act 1984(19);

it shall remove the name of that dentist or body corporate from the dental list with effect from the date of its determination or, in the case of (c) above, the date on which the disqualification takes effect if that date is later than the date of the Health Board's determination, and shall notify that dentist or body corporate as soon as practicable of the removal and the grounds for that removal.

- (4) Subject to paragraph (5), where a Health Board has determined that—
- (a) a dentist or body corporate whose name has been included for the preceding 6 months in the first part of its dental list, has not provided general dental services during that period;
 - (b) a dentist whose name has been included for the preceding 12 months in the second part of its dental list, has not assisted with the provision of general dental services during that period;
 - (c) the dentist is employed by a dentist or a body corporate that is disqualified at the time;
 - (d) the dentist or body corporate provides services under a contract of service to a dentist or a dental body corporate that is disqualified at the time;
 - (e) the dentist or body corporate is a partner of a dentist or a dental body corporate that is disqualified at the time;
 - (f) a dentist who is deemed to be included in a Health Board's dental list by virtue of regulation 33(3)(a) or (b) has failed to provide to the Health Board all of the information, declarations, certificates, undertakings or consents required under, and within such timescales as is prescribed in, regulation 33(6); or
 - (g) a dentist or dental body corporate is in an associateship agreement with a dentist or dental body corporate that is disqualified at the time;

the Health Board shall remove the name of the dentist or body corporate from its dental list.

(17) Section 27 was substituted by [S.I. 2005/2011](#).

(18) [1983 c.54](#).

(19) Section 43B was inserted by [S.I. 2005/2011](#).

- (5) Before making any determination under paragraph (4) the Health Board shall—
- (a) give the dentist or body corporate 28 days' notice of its intention to do so;
 - (b) afford the dentist or body corporate an opportunity of making representations to the Health Board in writing or in person; and
 - (c) in the case of a determination under paragraph 4(a) and (b) only, where the name of the dentist or body corporate is included in sub-part A of the first part of the dental list or where the name of the dentist is included in the second part of the dental list, consult the area dental committee.
- (6) In calculating the period of 6 months or 12 months referred to in paragraph (4) there shall be disregarded any period during which—
- (a) the dentist was performing relevant service;
 - (b) the dentist was on statutory maternity, paternity or adoption leave;
 - (c) the dentist was unable to provide general dental services or assist with the provision of such services because of sickness;
 - (d) the dentist or body corporate was suspended by direction of the Tribunal or was suspended by the Health Board, or
 - (e) the dentist or body corporate was performing personal dental services in connection with a pilot scheme.
- (7) In this regulation “relevant service” means—
- (a) whole-time service in the armed forces of the Crown in a national emergency as volunteer or otherwise; or
 - (b) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
 - (c) any equivalent service by a person liable for compulsory whole-time service in those forces.
- (8) Nothing in this regulation shall prejudice any right of a dentist or body corporate to have the dentist's or body corporate's name included again in a dental list.
- (9) In this regulation “interim order” as referred to in paragraph (3)(e) and 3(g)(i) and in paragraph (3)(f) has the same meaning as in the Dentists Act 1984 and in the Medical Act 1983 respectively.

Re-inclusion in dental list

13.—(1) Where a dentist or body corporate has been removed from a Health Board's dental list under regulation 12, and the occurrence that led to that removal is overturned either on appeal, or for any other reason, the Health Board may include that person in its dental list without an application being made in accordance with regulation 5 if the Health Board is satisfied that there is no further information which it should consider, and provided that the Health Board receives undertakings from that person to comply with these Regulations.

(2) Where the Health Board considers that further information is required, a dentist or body corporate wishing to be re-included in the dental list will be required to provide that further information and undertakings or, at the option of the Health Board, complete a full application in accordance with regulation 5.

Disclosure of information

14.—(1) Where a Health Board decides to—

- (a) refuse to admit a dentist or body corporate to its dental list on the grounds specified in regulation 7;
- (b) suspend a dentist or body corporate from its dental list, or end a suspension under regulation 11; or
- (c) remove a dentist or body corporate from its dental list on the grounds specified in regulation 12,

the Health Board shall notify the bodies specified in paragraph (2), and shall additionally notify those specified in paragraph (3), if requested to do so by those persons or bodies in writing, of the matters set out in paragraph (4).

- (2) A Health Board shall, within 7 days, notify a decision under paragraph (1) to—
 - (a) the Scottish Ministers;
 - (b) the Agency;
 - (c) any other Health Board or equivalent body which, to the knowledge of the notifying Health Board—
 - (i) has that dentist or body corporate on any list or equivalent list;
 - (ii) is considering an application by that dentist or body corporate for inclusion in any list or equivalent list; or
 - (iii) is investigating an allegation against that dentist or body corporate;
 - (d) the Secretary of State;
 - (e) the National Assembly for Wales;
 - (f) the Northern Ireland Executive;
 - (g) the General Dental Council or any other appropriate licensing or regulatory body;
 - (h) NHS Education for Scotland.
- (3) The persons or bodies to be additionally notified in accordance with paragraph (1) are—
 - (a) persons or bodies which can establish that they are employing that dentist, or using the services of that dentist or body corporate to provide or assist with the provision of general dental services;
 - (b) a body corporate which provides general dental services and which can establish that the dentist or body corporate is one of the body of persons which governs or controls the body corporate.
- (4) The matters referred to in paragraph (1) are—
 - (a) the name of the dentist or body corporate;
 - (b) the professional registration number of the dentist;
 - (c) a copy of the Health Board’s decision; and
 - (d) a contact name of a person in the Health Board for further enquiries.
- (5) The Health Board shall send the dentist or body corporate a copy of any information provided to the persons or bodies listed in paragraphs (2) or (3), and any correspondence with such persons or bodies.
- (6) Where the Health Board has notified any of the persons or bodies specified in paragraphs (2) or (3) of the matters set out in paragraph (4), it may, in addition, if requested by that person or body, notify that person or body of any information that was considered by the Health Board, including any representations from the dentist or body corporate (as the case may be).

(7) A Health Board may disclose information about a dentist or body corporate supplied to it or acquired by the Health Board pursuant to these Regulations, or about references by the Health Board to the Tribunal, to any of the following:—

- (a) the Scottish Ministers;
- (b) the Agency;
- (c) any other Health Board or equivalent body, which—
 - (i) has the person to whom the information relates on any list or equivalent list;
 - (ii) is considering an application from such a person for inclusion in any list or equivalent list; or
 - (iii) is investigating an allegation against that person;
- (d) the Secretary of State;
- (e) the National Assembly for Wales;
- (f) the Northern Ireland Executive;
- (g) the General Dental Council or any other licensing or regulatory body;
- (h) persons or bodies which can establish that they are employing that person or using the services of that person for the provision, or assistance with the provision, of general dental services;
- (i) a body corporate which provides general dental services, and can establish that the person is one of the body of persons which governs or controls the body corporate;
- (j) NHS Education for Scotland.

Withdrawal from dental list

15.—(1) Subject to paragraph (2), a dentist or body corporate may at any time give notice in writing to the Health Board of the intention to withdraw from the dental list and the name of the dentist or body corporate shall be removed from the Health Board’s list after the expiry of 3 months from the date of the notice, or such shorter period as the Health Board may agree.

(2) Where, in relation to any dentist or body corporate, representations are made to the Tribunal under section 29 of the Act (the NHS Tribunal), or a request for a review has been made to the Tribunal or a review is to be made by the Tribunal under section 30 of the Act (review etc. of disqualification) the dentist or body corporate shall not, except with the consent of the Scottish Ministers and subject to such conditions, if any, as the Scottish Ministers impose, be removed from the dental list until the proceedings on such representations, request for review or review have been determined.

Information about assistants

16. A Health Board shall send to the SDPB any information it receives under paragraph 44 of Schedule 1 (deputies and assistants) within 7 days of the date of its receipt of the information.

Information about associateship agreements

17.—(1) Where an associateship agreement is made, notice in writing of the names of the parties to the agreement and the date of the agreement shall be sent to the Health Board within 7 days of that date.

(2) Notice in writing of any change in the parties to, or the termination of, any associateship agreement shall be sent to the Health Board within 7 days of such change or termination.

(3) The notices referred to in paragraphs (1) and (2) shall be sent by the person, or one of the persons, liable by virtue of the associateship agreement to provide the use of practice premises and facilities.

(4) A Health Board shall, within 7 days of the date of receipt of the notice, supply the SDPB with information it receives under paragraphs (1) and (2).

Transfer of continuing care and capitation arrangements

18.—(1) Subject to paragraphs (2) and (3) where the name of a dentist or body corporate who is providing care and treatment for patients under continuing care arrangements or capitation arrangements ceases to be included in sub-part A of the first part of the dental list, or such a dentist or body corporate is suspended by direction of the Tribunal or suspended by the Health Board, the Health Board may, after consultation with the area dental committee and with the agreement of the patients concerned, make arrangements with one or more dentists or bodies corporate whose names are included in sub-part A of the first part of the dental list for the continuing care arrangements or capitation arrangements to be transferred to that or those dentists or bodies corporate.

(2) Where the name of a dentist who has died remains on sub-part A of the first part of its dental list under regulation 12(2), the Health Board shall, subject to the agreement of the patients concerned, make arrangements with the dentist or body corporate appointed by the dentist's personal representatives for the care and treatment under any continuing care arrangements or capitation arrangements entered into by the deceased dentist to be provided by that dentist or body corporate.

(3) Where a suspension by direction of the Tribunal or suspension by the Health Board ceases to have effect and the suspended dentist or body corporate continues to be included in sub-part A of the first part of its dental list, the Health Board shall make arrangements for any continuing care arrangements or capitation arrangements transferred under paragraph (1) to be transferred back to the original dentist or body corporate, subject to the agreement of the patients concerned.

Emergency dental services

19.—(1) A Health Board may make arrangements with any dentist or body corporate whose name is included in any part of its dental list for the provision of emergency dental services in urgent cases at a hospital or premises of the Health Board or any other premises approved by the Health Board when contractors in the Health Board's area are not normally available to provide general dental services.

(2) For the purpose of section 25(3)(b) of the Act a Health Board may pay to a dentist remuneration which consists wholly or mainly of a sessional fee where the dentist provides emergency dental services.

(3) In this regulation an "urgent case" means any circumstances in which, in the opinion of a dentist, a patient needs immediate treatment for an acute condition.

Arrangements for emergency cover

20. It shall be the responsibility of a Health Board to make any arrangements that may be necessary to enable a salaried dentist whose name is included in sub-part A of the first part of its dental list to comply with the dentist's obligations under paragraph 6 of Schedule 1.

Health Board patient information leaflets

21. A Health Board shall compile and make available a patient information leaflet which shall include the information specified in Schedule 6 and details of the provision of general dental services by salaried dentists in the Health Board's area.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
