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STATUTORY INSTRUMENTS

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**1996 No. 177**

**The National Health Service (General Dental Services) (Scotland) Regulations 1996**

**PART II**

general arrangements for provision of general dental services

**Terms of service**

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

- (a) in the case of a dentist undertaking to provide general dental services (other than emergency dental services) otherwise than as a salaried dentist, 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; and
- (c) in the case of the provision of emergency dental services by a dentist undertaking to provide emergency dental services, the terms of service contained in Parts I and III, paragraphs 19, 20, 21, 22, 23 and 25 of Part IV and paragraphs 39, 40, 41 and 42 of Part VI of Schedule 1.

(2) A Health Board may, after consultation with an area dental committee and with the approval of the Secretary of State, make special arrangements with a dentist whereby the dentist undertakes to provide general dental services throughout a district specified in the arrangements, at suitable centres in the district or at the homes of persons requiring such services.

**Dental list**

**4.—**(1) The Health Board shall prepare a list, to be called the dental list, of dentists who, pursuant to the provisions of regulation 5, have undertaken to provide general dental services in its area and who are not disentitled by virtue of the provisions of—

- (a) sections 25(2A), 30(1), 31(b) 32A(3), 32B(1) or 32D(2) of the Act<sup>(1)</sup>;
- (b) section 8(2) of the Health and Medicines Act 1988<sup>(2)</sup>; or
- (c) regulation 10 (restrictions on the right to be included in a dental list).

(2) The dental list shall, in addition to the name of the dentist—

- (a) contain—

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(1) Section 25(2A) was inserted by [S.I. 1981/432](#), article 4(3); section 30(1) was amended by the National Health Service (Amendment) Act 1995 ([c. 31](#)), section 10; sections 32A, 32B and 32D were inserted by section 8 of the National Health Service (Amendment) Act 1995.

(2) [1988 c. 49](#).

- (i) the addresses of all the practice premises and, where he provides general dental services at a mobile surgery only, the address at which correspondence in connection with such provision may be sent to him;
  - (ii) particulars of the days and hours when he is or will be usually in attendance at the practice premises for the provision of general dental services and, in the case of any mobile surgery, particulars of the places regularly visited by him and the times of those visits;
  - (iii) the name of any other dentist in association with whom he provides general dental services at the practice premises;
  - (iv) the date of his registration as a dental practitioner in the register kept under section 14 of the Dentists Act 1984(3), particulars of the dental qualification held by the dentist which entitled him to be so registered, including the date on which the qualification was awarded and particulars of any other dental qualification held by him which is registerable pursuant to section 19(1)(c) of the Dentists Act 1984; and
- (b) indicate—
- (i) whether the dentist provides only orthodontic treatment; and
  - (ii) whether there is access to the dental surgery without the use of stairs.
- (3) The dental list may, provided that the dentist consents to their inclusion, also give particulars of any languages, other than English, spoken by the dentist.
- (4) The dental list may, if the Health Board thinks fit, be so arranged as to show the part of its area in which each dentist has undertaken to provide general dental services.
- (5) A dentist whose name is included in the dental list of a Health Board shall notify the Health Board within 14 days of any occurrence requiring alteration to the information recorded in relation to him.
- (6) The Health Board shall—
- (a) send to the Board and the area dental committee a copy of its dental list; and
  - (b) notify the Board 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) Subject to paragraph (9) the Health Board shall—
- (a) send, if requested to do so, a copy of the dental list to—
    - (i) the Secretary of State;
    - (ii) the area medical committee;
    - (iii) the area pharmaceutical committee;
    - (iv) the Common Services Agency;
    - (v) an NHS Trust the functions of which consist of or include the management of a hospital which is situated in the Health Board area; and
    - (vi) any pharmacist providing pharmaceutical services in the Health Board area; and
  - (b) in that event, notify them, at intervals of not less than 3 months, of any alterations made to the dental list.
- (8) The Health Board shall, if necessary, prepare an updated dental list each year and send a copy—
- (a) to the Board and the area dental committee; and

(b) subject to paragraph (9), to any person mentioned in paragraph (7)(a) who under that paragraph requested a copy of the dental list.

(9) Where the Health Board considers that only parts of, or only some of the alterations to, the dental list are likely to concern any person mentioned in paragraph (8)(b) it may instead of sending him a copy of the list or notifying him of all the alterations send that person a copy only of those parts, or as the case may be, notify him only of those alterations.

#### **Application for inclusion in the dental list**

5.—(1) Subject to paragraphs (2) and (3), a dentist who wishes to have his name included in the dental list shall make an application to the Health Board in writing which—

- (a) shall include the information and undertaking specified in Part I of Schedule 2; and
- (b) may include the information specified in Part II of that Schedule,

and the Health Board shall determine the application within 14 days of the date of its receipt, or where it considers the proposed practice premises should be inspected, within 14 days of the date of inspection.

(2) A dentist who wishes to have his name included in the dental list but who does not have a vocational training number shall apply to the Council for a vocational training number, and his application for a vocational training number shall be dealt with in accordance with regulation 6 before the Health Board determines his application under paragraph (1).

(3) The period of 14 days specified in paragraph (1) shall not apply to an application under that paragraph by a dentist who does not have a vocational training number until such a number has been allocated to him.

#### **Applications for vocational training numbers**

6.—(1) An application for a vocational training number shall be made in writing to the Council and—

- (a) shall state that the dentist has also made an application under regulation 5, and—
  - (i) specify the Health Board to which that application has been made, and
  - (ii) state the date on which it was made, and
- (b) shall either—
  - (i) state that the dentist has completed vocational training and be accompanied by his vocational training certificate; or
  - (ii) state that the experience or training which the dentist has acquired ought to be regarded as equivalent to vocational training and be accompanied by written details of that experience or training; or
  - (iii) state that the dentist is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3) and be accompanied by written details in support of that statement.

(2) For the purpose of paragraph (1)(b)(ii) experience or training shall not be prevented from being equivalent to vocational training merely because the structure of the experience does not comply exactly with the definition of vocational training.

(3) The grounds upon which a dentist is exempt from the requirement to have completed vocational training are—

- (a) he is registered as a dentist by virtue of section 15(1)(b) or (bb) of the Dentists Act 1984<sup>(4)</sup> (registration of nationals of member States who hold appropriate European diplomas) or is in any other way a person in respect of whom a member State is prohibited by Community law from imposing such a requirement; or
  - (b) his name has been included in a dental list in the United Kingdom within the period of five years ending on the date of his application to be included in the dental list; or
  - (c) he holds a voluntary vocational training certificate which states that it is in respect of vocational training completed on or after—
    - (i) 1st January 1988 in the case of a certificate issued in England and Wales,
    - (ii) 1st July 1988 in the case of a certificate issued in Scotland, or
    - (iii) 1st August 1989 in the case of a certificate issued in Northern Ireland; or
  - (d) he has practised in primary dental care for a period of at least four years in the aggregate in either the community dental service or the armed forces of the Crown and part of that aggregate period has fallen within four years of the date of his application under regulation 5; or
  - (e) in the case of any application made before 1st October 1998, he was, on 1st October 1993, employed as a Senior House Officer or Registrar in a hospital in the United Kingdom or enrolled on a course intended to lead to a Master’s degree in dentistry or Membership Diploma in dentistry of any of the Royal Colleges of Surgeons in the United Kingdom.
- (4) In paragraph (3)—
- (a) in sub-paragraph (d), “primary dental care” means care and treatment delivered by the dentist at the first point of contact with the patient, and the “community dental service” means the dental service in Scotland provided under sections 1 and 39(2) of the Act<sup>(5)</sup>, in England and Wales provided under section 3(1)(c) and section 5(1)(a) or (1A) of the National Health Service Act 1977<sup>(6)</sup> and in Northern Ireland provided under Articles 5(1)(c), 9(1)(a) and (1A) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(7)</sup>; and
  - (b) in sub-paragraph (e) “Membership Diploma” means any postgraduate dental qualification which is registrable with the General Dental Council.
- (5) An application for a vocational training number shall be granted by the Council if the applicant—
- (a) has had a vocational training certificate issued to him;
  - (b) has acquired experience or completed training which ought to be regarded as equivalent to vocational training; or
  - (c) is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3).
- (6) If the Council determines to grant an application for a vocational training number it shall—
- (a) allocate to the applicant a vocational training number;
  - (b) notify him of that number within 14 days of the determination; and
  - (c) enter that number against the name of the applicant in a register kept for that purpose.
- (7) If the Council does not allocate a vocational training number to the applicant, it shall within 10 days of that decision, send him a notice to that effect together with a statement setting out the reasons

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(4) 1984 c. 24.

(5) Section 39(2) was substituted by the Health and Medicines Act 1988, section 10.

(6) 1977 c. 49; section 5(1)(a) was amended by, and section 5(1A) was added by, the Health and Medicines Act 1988, section 10.

(7) S.I. 1972/1265.

why it has not done so and telling him about his right to appeal to the Appeal Body, the time limit for appeals specified in regulation 8(1) and giving the address to which an appeal, if made, must be sent.

### **Appeal body for appeals against refusal of vocational training number**

7.—(1) The body to which appeals may be made in respect of a refusal to grant a vocational training number shall be a body of seven persons appointed by the Secretary of State.

(2) Of the seven persons referred to in paragraph (1)—

(a) one person shall be appointed as chairman of the body who—

(i) is an advocate or solicitor in Scotland of at least 10 years standing, or

(ii) has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990<sup>(8)</sup>), or

(iii) is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least 10 years standing;

(b) three shall be dentists nominated by a body appearing to the Secretary of State to be representative of the dental profession; and

(c) three shall be dentists nominated by the Secretary of State.

(3) The Secretary of State shall appoint a person to act as secretary to the Appeal Body.

### **Procedure on appeal**

8.—(1) A dentist whose application for a vocational training number has been refused by the Council may appeal against the refusal by giving to the Appeal Body, within 28 days after he has received notice of the refusal pursuant to regulation 6(7) (or such extended period as the Appeal Body may allow pursuant to paragraph (2)), a written notice of appeal setting out a statement of the facts and contentions on which he intends to rely.

(2) The Appeal Body may agree to an extension or further extension of the period of 28 days for lodging an appeal (either before or after that period has expired).

(3) In any case in which a dentist appeals to the Appeal Body in terms of paragraph (1), that dentist shall also send a copy of the written notice of appeal to the Council.

(4) The Council shall, within 21 days of the date of receipt of the copy of its notice of appeal referred to in paragraph (3), send to the Appeal Body a statement, signed and dated, saying whether or not the appeal is opposed.

(5) The Appeal Body may agree to an extension or further extension of the period of 21 days set out in paragraph (4) for lodging the statement by the Council (either before or after that period has expired).

(6) On receipt of a notice of appeal the Appeal Body shall appoint to determine the appeal an appeal committee consisting of the chairman and two other persons, of whom—

(a) one shall be drawn from the dentists appointed under regulation 7(1) following their nomination under regulation 7(2)(b); and

(b) the other shall be drawn from the dentists appointed under regulation 7(1) following their nomination under regulation 7(2)(c).

(7) If the appeal is opposed by the Council then the Council shall—

(a) set out fully on what grounds the appeal is opposed;

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(8) 1990 c. 41.

- (b) specify any representations which the Council may desire to submit with regard to the information furnished by the appellant; and
- (c) send to the Appeal Body—
  - (i) a certified copy of the application made by the dentist under regulation 6(1);
  - (ii) a certified copy of the notice to the dentist and the statement of reasons specified in regulation 6(7);
  - (iii) certified copies of any further written correspondence between the applicant and the Council in relation to the application; and
  - (iv) any documentary evidence which the Council may desire to submit.
- (8) In connection with an appeal, the appeal committee may require such further particulars from an appellant and such documents in support of his appeal, and may make such inquiries of such persons as it thinks fit.
- (9) The appeal committee shall send to the appellant and to the Council (if the appeal is opposed) a copy of any comments made by such persons in reply to those inquiries and shall give the appellant and the Council (if the appeal is opposed) a period of 21 days beginning with the date on which the comments are sent to the respective parties in which to reply to such comments.
- (10) The appeal committee shall give notice to the appellant that he may, within such period as is specified in the notice, require the appeal committee to give him an opportunity of appearing before and being heard by the appeal committee.
- (11) The appeal committee shall appoint a date, time and place for the consideration of the appeal, and may, or shall if so required by the appellant, hold a hearing for that purpose.
- (12) If a hearing is to be held, the appeal committee shall appoint a date, time and place for the hearing and, not less than 21 days before the date, shall send notice to the appellant and to the Council informing them of such date, time and place.
- (13) At a hearing by the appeal committee, the appellant may appear and be heard in person or by counsel or a solicitor or by any other person on his behalf, and the Council may appear and be represented by counsel or a solicitor or by any duly authorised member or officer.
- (14) The appellant may withdraw his appeal at any time.
- (15) Where the appellant does not appear at a hearing and is not represented, the appeal committee may, if they are not satisfied that such failure to appear or be represented was due to a reasonable cause, treat any request for a hearing as having been withdrawn.
- (16) The proceedings of the appeal committee shall be in private.
- (17) The appeal committee shall determine the appeal and shall, within 10 days of that determination, notify the appellant and the Council in writing of their decision and the reasons for it.
- (18) Where the Council receives notice that a dentist's appeal has been allowed, it shall allocate a vocational training number to the dentist, notify him of that number within 10 days, and enter that number in its register of vocational training numbers.
- (19) Subject to the foregoing paragraphs, the procedure of the Appeal Body and of the appeal committee shall be such as that body and committee respectively think fit.

### **Local directory of dentists**

- 9.—(1)** A Health Board may prepare, and thereafter maintain, in addition to a dental list, another list known as the 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 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 is appropriate for inclusion in the local directory of dentists, it may request in writing any dentist whose name is included in its dental list to furnish the Health Board with such information as it relates to him, and the dentist shall furnish that information to the Health Board within 28 days of the date of the Health Board's request.

### **Restrictions on the right to be included in a dental list**

**10.**—(1) A dentist shall not be entitled to have his name included in the dental list prepared by any Health Board where the circumstances specified in paragraph (2) apply.

(2) The circumstances referred to in paragraph (1) are—

- (a) if the dentist has previously withdrawn his name from the dental list prepared by any Health Board or any list prepared pursuant to section 36(1)(a) of the National Health Service Act 1977<sup>(9)</sup> in circumstances where the Secretary of State has certified for the purpose of regulation 10(4) of the National Health Service (Superannuation) (Scotland) Regulations 1980<sup>(10)</sup> or, as the case may be, regulation 8(7) of the National Health Service (Superannuation) Regulations 1980<sup>(11)</sup> that, in the interests of the efficiency of general dental services he should cease to provide such services;
- (b) if the Health Board is not satisfied following inspection that the proposed practice premises meet the requirements of paragraph 33 of Schedule 1, or
- (c) if the dentist does not have a vocational training number.

### **Removal from dental list**

**11.**—(1) Subject to paragraph (2) where a Health Board has determined that a dentist whose name has been included in the dental list—

- (a) has died, or
- (b) has ceased to be a registered dental practitioner 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 his practice is carried on by his personal representatives in accordance with the provisions of the Dentists Act 1984<sup>(12)</sup>, and
- (b) the personal representatives have appointed for that purpose a dentist whose name is included in the dental list of the Health Board,

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

(3) Subject to paragraph (5), where a Health Board has determined in accordance with paragraph (4) that a dentist whose name has been included for the preceding 6 months in the dental list has not during the period provided general dental services, the Health Board shall remove the dentist's name from the dental list.

(4) Before making any determination under paragraph (3) the Health Board shall—

- (a) give the dentist 28 days' notice of their intention to do so;

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<sup>(9)</sup> 1977 c. 49 section 36 was renumbered to become section 36(1) by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 5(1).

<sup>(10)</sup> S.I. 1980/117.

<sup>(11)</sup> S.I. 1980/362; to which there are amendments not relevant for the purpose of these Regulations.

<sup>(12)</sup> 1984 c. 24.

- (b) afford the dentist an opportunity of making representations to the Health Board in writing or, if he so desires, in person; and
  - (c) except where the dentist is a salaried dentist, consult the area dental committee.
- (5) In calculating the period of 6 months referred to in paragraph (3) there shall be disregarded any period during which—
- (a) the dentist was performing relevant service;
  - (b) the dentist was on maternity leave;
  - (c) the dentist was unable to provide general dental services because of sickness; or
  - (d) the dentist was suspended by direction of the Tribunal.
- (6) In this regulation—
- (a) “relevant service” means—
    - (i) whole-time service in the armed forces of the Crown in a national emergency as volunteer or otherwise; or
    - (ii) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
    - (iii) any equivalent service by a person liable for compulsory whole-time service in those forces; and
  - (b) “maternity leave” means the period of one year beginning with the date of confinement.
- (7) Nothing in this regulation shall prejudice any right of a dentist to have his name included again in a dental list.

### **Removal from dental list on grounds of age**

- 12.—**(1) A Health Board shall—
- (a) on 1st April 1996 remove from the dental list the name of any dentist included in that list who has, on or before that date, attained the age of 66; and
  - (b) on 1st April 1997 remove from the dental list the name of any dentist included in that list who has, on or before that date, attained the age of 65.
- (2) A Health Board shall, on 1st April in 1998 and in each successive year thereafter, remove from the dental list the name of any dentist included in the list who has attained the age of 65 during the period of 12 months ending on 1st April in that year.
- (3) A Health Board shall give to any dentist whose name is to be removed from the dental list in accordance with paragraph (1) or (2)—
- (a) notice in writing to that effect not less than 12 months nor more than 13 months before the date on which his name is to be removed; and
  - (b) a further such notice not less than 3 months nor more than 4 months before that date,
- but the failure to give notice to any dentist as required by sub-paragraph (a) or (b) shall not prevent the removal of that dentist’s name from the dental list in accordance with paragraph (1) or (2).

### **Withdrawal from dental list**

- 13.—**(1) Subject to paragraph (2) a dentist shall be entitled at any time to give notice in writing to the Health Board that he desires to withdraw his name from the dental list and his name shall be removed therefrom at the expiration of 3 months from the date of such notice or of such shorter period as the Health Board may agree.



(2) Where, in relation to any dentist, representations are made to the Tribunal under section 29 of the Act (disqualification of persons providing services) that the continued inclusion of a dentist in the dental list would be prejudicial to the efficiency of the general dental services, the dentist shall not, except with the consent of the Secretary of State and subject to such conditions, if any, as the Secretary of State may impose, be removed from the dental list until the proceedings on such representations have been determined.

(3) Paragraph (2) shall not apply in the case of a dentist who has reached an age at which on the following 1st April his name shall be removed from the dental list in accordance with regulation 12.

#### **Information about assistants**

**14.** A Health Board shall send to the Board any information it receives under paragraph 35(5) of Schedule 1 (employment of assistants) within 7 days of the date of its receipt of the information.

#### **Information about associateship agreements**

**15.—(1)** Where an associateship agreement is made, written notice of the parties thereto and of the date on which the agreement was made shall be given to the Health Board within 7 days of the date on which the agreement was made.

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

(3) Any notice required by this regulation shall be given by the person or, if more than one, one of the persons, liable by virtue of the associateship agreement to provide the use of premises and facilities.

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

#### **Transfer of continuing care and capitation arrangements**

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

(2) Where a dentist has died and his name remains on the dental list in accordance with regulation 11(2), the Health Board shall, subject to the agreement of the patients concerned, make arrangements with the dentist appointed by the personal representatives of the deceased dentist 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.

(3) Where a suspension by direction of the Tribunal ceases to have effect and the suspended dentist continues to be included in the dental list, the Health Board shall make arrangements for any continuing care arrangements or capitation arrangements transferred under paragraph (1) which are still in force (including any such arrangement which has been extended under paragraph 8 or 9 of Schedule 1) to be transferred back to the original dentist, subject to the agreement of the patients concerned.

#### **Emergency dental services**

**17.—(1)** A Health Board may make arrangements with any dentist whose name is included in its dental list for the provision of treatment in urgent cases at a hospital or premises of the Health

Board when dentists in its area, or part of its 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 fixed salary where he provides general dental services in accordance with paragraph (1) of this regulation.

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

#### **Arrangements for emergency cover**

**18.** 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 its dental list to comply with his obligation under paragraph 6 of Schedule 1.

#### **Health Board patient information leaflets**

**19.** A Health Board shall compile and make available to any person who may reasonably require one, a document about the provision of general dental services by salaried dentists in its area (a “Health Board patient information leaflet”) which shall include the information specified in Schedule 6.