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SCOTTISH STATUTORY INSTRUMENTS

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**2010 No. 208**

**NATIONAL HEALTH SERVICE**

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

<i>Made</i>	- - - -	<i>20th May 2010</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>21st May 2010</i>
<i>Coming into force</i>	- -	<i>2nd July 2010</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(5), 4(1A), (1B) and (1C), 25(1), (2), (2A), (2B), (3) and (5), 28(1), 28A, 28C, 32D, 32E, 34, 105(6) and (7), 106 and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them to do so. In accordance with section 4(1B) of that Act they have consulted such organisations as appear to them to be representative of persons providing general dental services. In accordance with section 25(3) of that Act they have consulted such organisations as appear to them to be representative of the dental profession.

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(1) 1978 c.29; section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), Schedule 9, paragraph 19(1); section 4 was amended by the Health and Medicines Act 1988 (c.49) (“the 1988 Act”) sections 12(3), 25(2) and Schedule 3, and is amended by the [Smoking, Health and Social Care \(Scotland\) Act \(asp 13\)](#) (“the 2005 Act”) schedule 2, paragraph 2, with effect from 2nd July 2010 in terms of [S.S.I. 2010/185](#); section 25(1) is amended by the 2005 Act, section 15, with effect from 20th May 2010 for the purposes of making regulations and with full effect from 2nd July 2010 in the terms of [S.S.I. 2010/185](#), section 25(2), (2A) and (2B) are substituted by the 2005 Act, section 17, with effect from 20th May 2010 for the purposes of making regulations and with full effect from 2nd July 2010 in terms of [S.S.I. 2010/185](#); section 25(3) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 4, and Schedule 7; section 25(5) was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 16; section 28(1) was amended by the National Health Service (Amendment) Act 1986 (c.66), section 3(4) and by the Primary Medical Services (Scotland) Act 2004 (asp 1), (“the 2004 Act”), schedule 1, paragraph 8; section 28A was substituted by the Health Act 1999 (c.8) (“the 1999 Act”), section 57, and amended by the 2004 Act, schedule 1, paragraph 1; section 32D was substituted by the 2005 Act, section 27; section 32E was inserted by the National Health Service (Amendment) Act 1995 (c.31), section 8 and amended by the 2005 Act, schedule 2, paragraph 2(14); section 105(7), was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, by the [Health and Social Services and Social Security Adjudications Act 1983, \(c.41\)](#), Schedule 9, paragraph 24 and by the 1999 Act, Schedule 4, paragraph 60 and contains provisions relevant to the making of Regulations; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

## PART I

### GENERAL

#### Citation and commencement

1. These Regulations may be cited as the National Health Service (General Dental Services) (Scotland) Regulations 2010 and come into force on 2nd July 2010.

#### Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“the 1997 Act” means the National Health Service (Primary Care) Act 1997<sup>(2)</sup>;

“the 1996 Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1996<sup>(3)</sup>;

“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act<sup>(4)</sup>;

“area” means in relation to a Health Board the area for which the Health Board is constituted;

“area dental committee” means the committee of that name which is recognised by a Health Board in relation to its area under section 9 of the Act<sup>(5)</sup>;

“assistant” means (i) any dentist employed as an assistant dentist by a contractor either whole-time or part-time under a contract of service, for the purpose of assisting that contractor with the provision of general dental services or (ii) any dentist undertaking vocational training under the supervision of a salaried dentist and who is employed under a contract of service with a Health Board;

“associateship agreement” means an agreement between dentists or a dentist and a body corporate named in sub-part A of the first part of a dental list—

- (a) to which there are 2 parties, who are not parties to a partnership agreement, relating to the provision of general dental services, and
- (b) whereby one party is liable to provide, for financial consideration, the use of some or all premises and facilities for the provision of general dental services by the other party;

“body corporate” means a body corporate entitled by virtue of section 43 of the Dentists Act 1984<sup>(6)</sup> to carry on the business of dentistry;

“capitation arrangement” means an arrangement between a contractor and a patient whereby the contractor provides care and treatment in accordance with paragraph 5 of Schedule 1;

“care and treatment” means all proper and necessary care and treatment which a dentist usually undertakes for a patient and which the patient is willing to undergo, including advice, planning of treatment and preventative care;

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(2) 1997 c.46.

(3) S.I. 1996/177, amended by S.I. 1996/841 and 2060; 1998/1663, 2224 and 2259; 1999/724 and 2005/2011; and by S.S.I. 1999/51; 2000/188, 352; 394; 2001/57, 368; 2002/99, 188, 192, 268; 2003/131, 422; 2004/37, 292; 2005/95; 2006/137, 321; 2007/191, 422; 2009/96, 183 and 2010/33.

(4) Section 10 was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 66(2) and Schedule 10; the 1999 Act section 65(1) and Schedule 4, paragraph 44; and by the 2005 Act, schedule 2, paragraph 2(4).

(5) Section 9 was amended by the 1990 Act, section 29 and the 1999 Act, section 65 and Schedule 4, paragraph 43.

(6) 1984 (c.24); section 43 was substituted by S.I. 2005/2011.

“condition for disqualification” means the first, second or third condition for disqualification in section 29 of the Act(7);

“conditional disqualification” has the same meaning as in section 29C(1) of the Act(8) and includes a decision under provisions in force in England, Wales or Northern Ireland corresponding (whether or not exactly) to a conditional disqualification, and “conditionally disqualified” shall be construed accordingly;

“continuing care arrangement” means an arrangement between a contractor and a patient whereby the contractor provides care and treatment in accordance with paragraph 4 of Schedule 1;

“contractor” means a person who has undertaken to provide general dental services and whose name is included in sub-part A of the first part of a Health Board’s dental list;

“corresponding decision” has the same meaning as in section 32D of the Act;

“dental care professional” means a person registered in the dental care professionals register;

“dental care professionals register” is the register established by section 36B of the Dentists Act 1984(9);

“dental hygienist” means a person in the profession pursued by dental hygienists who is registered in the dental care professionals register;

“dental list” has the meaning given to it by regulation 4;

“dental nurse” means a person in the profession pursued by dental nurses who is registered in the dental care professionals register;

“dental officer” means a dentist in the service of the SDPB;

“dental student” means a person studying for a qualification in dentistry, dental therapy or dental hygiene;

“dental surgery” means any part of the practice premises where care and treatment is provided;

“dental therapist” means a person in the profession pursued by dental therapists who is registered in the dental care professionals register;

“dentist” means a dental practitioner registered in the register of dentists;

“deputy” means a dentist who acts on behalf of another dentist, otherwise than in the capacity of an assistant, for the purpose of providing general dental services;

“director” means a director of a body corporate or a member of the body of persons controlling a body corporate;

“disqualification” means disqualification by the Tribunal (or a corresponding decision under provisions in force in England, Wales or Northern Ireland corresponding whether or not exactly to disqualification), but does not include conditional disqualification, and “disqualified” shall be construed accordingly;

“an emergency” means the circumstances set out in paragraph 6(2) of Schedule 1 in which a patient requires prompt care and treatment;

“emergency dental services” means treatment which is provided in terms of arrangements made under regulation 19;

“enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

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(7) Section 29 was substituted by the 1999 Act, section 58, and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), (“the 2002 Act”) schedule 2, paragraph 2(4); the 2004 Act, section 5 and by the 2005 Act, section 26 and schedule 2, paragraph 2(10).

(8) Section 29C(1) was inserted by the 1999 Act, section 58.

(9) Section 36B was inserted by S.I. 2005/2011, and amended by S.I. 2007/3101.

“enhanced criminal record certificate” has the meaning given in section 113B of the Police Act 1997<sup>(10)</sup>;

“equivalent body” means—

- (a) in England, a Primary Care Trust;
  - (b) in Wales, a Local Health Board;
  - (c) in Northern Ireland, a Health and Social Services Board;
  - (d) in relation to any time prior to 1st October 2002, a Health Authority in England; or
  - (e) in relation to any time prior to 1st April 2003, a Health Authority in Wales,
- or any successor body;

“equivalent list” means a list kept by an equivalent body;

“estimate” means a form supplied by the Health Board, or a form to like effect, completed by a dentist and submitted to the SDPB in accordance with paragraph 28 of Schedule 1 for the purpose of obtaining prior approval of care and treatment;

“fraud” means matters which it is the function of the Agency to prevent, detect or investigate by virtue of article 2(1) of the National Health Service (Functions of the Common Services Agency) Order 2008<sup>(11)</sup>;

“general dental services” has the meaning given in section 25(1) of the Act;

“Health Board” means a Health Board constituted for any area under section 2(1)(a) of the Act<sup>(12)</sup>;

“health centre” means any premises at which general dental services are provided by salaried dentists;

“in writing” does not (except where otherwise stated) include transmission by electronic means;

“licensing or regulatory body” means a body that licenses or regulates any profession of which the dentist, or the body corporate (as the case may be) is, or has been a member, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

“list” has, unless the context otherwise requires, the same meaning as in section 29(8)<sup>(13)</sup> of the Act;

“listed drugs” means such drugs and medicines as are included in a list for the time being approved by the Scottish Ministers for the purposes of section 27(1)(c)<sup>(14)</sup> of the Act;

“mobile surgery” means any vehicle in which care and treatment is provided;

“NHS charge” means a charge to the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003<sup>(15)</sup>;

“NHS Education for Scotland” means the body of the same name constituted under the NHS Education for Scotland Order 2002<sup>(16)</sup>;

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(10) 1997 c.50. Section 113B was inserted by the Serious Organised Crime and Police Act 2005 (c.15), section 163(2).

(11) S.S.I. 2008/312.

(12) Section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 7, paragraph 1, by the 1990 Act, section 28, and Schedule 9, paragraph 19 and by the 2004 Act, schedule 2, paragraph 2(2).

(13) Section 29(8) was amended by the 2002 Act, sections 25 and 27(2) and schedule 2, paragraph 2(4)(b), and the 2005 Act, section 26(2)(e).

(14) Section 27(1)(c) was amended by the Health Services Act 1980 (c.53), section 20; the 1990 Act, section 66 and schedule 9, paragraph 19(7) and by the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28).

(15) S.S.I. 2003/158 as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

(16) S.S.I. 2002/103 as amended by S.S.I. 2006/79.

- “occasional treatment” means treatment mentioned in paragraph 19 of Schedule 1;
- “oral health” means such a standard of health of the teeth, their supporting structures and other tissues of the mouth, and of dental efficiency, as is reasonable in the case of any patient, having regard to the need to safeguard the patient’s general health;
- “orthodontic treatment” means treatment provided under and in association with section VIII (orthodontic treatment) of the Scale of Fees;
- “orthodontist” means a dentist who is on the General Dental Council’s Specialist List of Orthodontists, namely the specialist lists in distinctive branches of dentistry maintained by the General Dental Council;
- “patient” means a person to whom general dental services are provided;
- “patient record” means the form supplied by the Health Board for the purpose of maintaining a record of treatment given to a patient or a form to like effect;
- “personal dental services” has the meaning given in section 1(8) of the 1997 Act;
- “pilot scheme” has the meaning given in section 1(1) of the 1997 Act;
- “practice premises” means any premises or mobile surgery at which a contractor provides general dental services;
- “practice record form” means a form supplied by the Health Board and completed in accordance with paragraph 29 of Schedule 1 for the purpose of obtaining general dental services in circumstances where the contractor intends to use a computer to send an estimate to the SDPB;
- “private”, in the context of care and treatment, means otherwise than under general dental services or Part III of the Act; and “privately” shall be construed accordingly;
- “professional conduct” includes matters relating both to professional conduct and professional performance;
- “professional registration number” means the number against the dentist’s name in the register of dentists;
- “register of dentists” means the register kept under section 14(17) of the Dentists Act 1984;
- “SDPB” means the Scottish Dental Practice Board;
- “salaried dentist” means a dentist employed by a Health Board to provide general dental services;
- “Scale of Fees” means the scale of fees set out in Determination I of the Statement of Dental Remuneration;
- “Statement of Dental Remuneration” means the Statement published from time to time by the Scottish Ministers in accordance with regulation 22;
- “suspended by the Health Board” means suspended by the Health Board as respects the provision of general dental services to patients, or as respects assisting in the provision of such services, in terms of regulation 11;
- “suspended by direction of the Tribunal” means suspended as respects the provision of general dental services, or as respects assisting in the provision of such services, to patients by a direction of the Tribunal made pursuant to section 32A(2) (application for interim suspension)(18) or section 32B(1) of the Act (suspension pending appeal)(19) or to any

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(17) Section 14 was amended by [S.I. 2005/211](#) and by [2007/3101](#).

(18) Section 32A(2) was inserted by the National Health Service (Amendment) Act [1995 \(c.31\)](#) (“the 1995 Act”), section 1 and amended by the 1999 Act, section 65 and Schedule 4, paragraph 51 and by the 2005 Act, section 26(7)(b).

(19) Section 32B(1) was substituted by the 1995 Act, section 8 and amended by the 1999 Act, section 65 and Schedule 4, paragraph 52, and by the 2005 Act, Schedule 3.

provisions in force in England and Wales or Northern Ireland corresponding (whether or not exactly) to those provisions;

“terms of service” means the terms of service set out in Schedule 1;

“trauma” means damage to teeth, gingival tissues, or *alveoli* caused by a force arising outside the mouth resulting in mobility, luxation, subluxation or fracture of the hard tissues or injury to the soft tissues;

“treatment” means all proper and necessary dental treatment which a dentist usually undertakes for a patient and which the patient is willing to undergo, including examination, diagnosis, preventative treatment, periodontal treatment, conservative treatment, surgical treatment, the supply, replacement and repair of dental appliances, orthodontic treatment, the taking of radiographs, the provision of sedation in connection with such treatment, and the supply of listed drugs and the issue of prescription forms in accordance with paragraphs 24 and 25 of Schedule 1;

“treatment on referral” means any care and treatment provided by a dentist under paragraph 14 of Schedule 1;

“treatment requiring prior approval” means any item of treatment referred to in Part I of Schedule 4 or any care and treatment specified in paragraph 1 or 2 in Part II of that Schedule;

“Tribunal” means the Tribunal constituted in accordance with the provisions of section 29 of, and Schedule 8(20) to, the Act;

“vocational training” has the meaning assigned to it by regulation 1(2) of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004(21);

“vocational training number” means the number allocated to a dentist—

- (a) in Scotland under regulation 2 of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004 or under the provisions of regulation 6 of the 1996 Regulations(22) before its revocation; and
- (b) in Northern Ireland under the General Dental Services Regulations (Northern Ireland) 1993(23).

(2) A reference to “the Agency” in these Regulations includes a reference to the Agency acting on behalf of a Health Board (unless the context otherwise requires).

(3) In these Regulations, unless the context otherwise requires—

- (a) any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations;
- (b) any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation; and
- (c) any reference to a numbered Schedule is a reference to the Schedule to these Regulations bearing that number.

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(20) Schedule 8 was amended by the 1995 Act, section 12, S.I. 1995/3214; the National Health Service (Primary Care) Act 1997 (c.46), section 41(10), and Schedule 2, Part II, paragraph 58; S.I. 1998/631; the 1999 Act, sections 65(1) and Schedule 4, paragraph 64, and by the 2005 Act, Schedule 2, paragraph 2.

(21) S.S.I. 2004/292, amended by S.I. 2009/2054.

(22) Regulation 6 was revoked by S.S.I. 2004/292.

(23) S.R. (N.I.) 1993 No. 326, as amended.

## 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)(24), 30(2)(25), or (5)(26), 32A(3)(27) or 32B(1)(28) of the Act;
  - (ii) a corresponding decision;

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(24) 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.

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

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

(27) 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.

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



- (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<sup>(29)</sup>.
- (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;
  - (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 subparagraphs 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<sup>(30)</sup> 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.

(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;

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<sup>(30)</sup> S.S.I. 2004/292 amended by S.I. 2009/2054.

- (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.
- (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(31) 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(32);
- (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(33), or as the case may be, regulation 8(7) of the National Health Service (Superannuation) Regulations 1980(34), 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 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(35) that in the interests of the efficiency of general dental services the dentist should cease to provide such services; or

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(31) 1983 c.54.

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

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

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

(35) 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.

- (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(36), 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(37) 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(38).
- (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.

### **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—

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(36) 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.

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

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

- (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<sup>(39)</sup>, 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;
- (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)<sup>(40)</sup> of the Dentists Act 1984);

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<sup>(39)</sup> 1984 c.24. Section 41 as relevantly amended by the Civil Partnership Act 2004 (c.33) Schedule 27 and by S.I. 2005/2011.

<sup>(40)</sup> Section 27 was substituted by S.I. 2005/2011.

- (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(41) 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(42);

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.

- (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.

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(41) 1983 c.54.

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

(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.

## **PART III**

### **REMUNERATION**

#### **Statement of Dental Remuneration**

**22.**—(1) The Scottish Ministers shall, after consultation with such organisations as appear to them to be representative of persons providing general dental services, make provision for each of the matters set out in Column 2 of the following Table in a determination and each determination shall bear the number in Column 1 of the said Table which corresponds with the subject matter of the determination:—

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

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**TABLE**

<i>Column 1 Determination</i>	<i>Column 2 Subject Matter of Determination</i>
I	A Scale of Fees which shall prescribe the remuneration to be paid to a contractor, other than a salaried dentist, for care and treatment under a continuing care arrangement or a capitation arrangement, treatment on referral and occasional treatment and the conditions of payment of remuneration.
II	Rates of remuneration for a salaried dentist and for the provision of emergency dental services.
III	Seniority payments
IV	Vocational training allowances.
V	Maternity, paternity and adoptive leave payments.
VI	Long term sickness payments.
VII	Continuing professional development allowances
VIII	Reimbursement of non-domestic rates
IX	Commitment payments
X	Allowances and grants for practice improvements
XI	Clinical audit allowances
XII	Remote area allowances
XIII	Recruitment and retention allowances

<i>Column 1</i> <i>Determination</i>	<i>Column 2</i> <i>Subject Matter of Determination</i>
XIV	Practice allowances
XV	Reimbursement of practice expenses

(2) The Scottish Ministers shall publish the determinations in a statement called the Statement of Dental Remuneration.

(3) The Scottish Ministers may from time to time after consultation with organisations as appear to them to be representative of persons providing general dental services, amend a Determination or any part thereof and shall publish any such amendment.

(4) A Determination or an amendment to a Determination shall be in respect of a period beginning on or after a date specified in that Determination or amendment, which may be the date of that Determination or amendment or an earlier or later date, but may be an earlier date only if, taking the Determination as a whole, it is not detrimental to persons to whose remuneration it relates.

### Approval of payments

23.—(1) The SDPB shall, where it is satisfied that—

- (a) a patient has been accepted by a contractor, other than a salaried dentist, under a continuing care arrangement or a capitation arrangement or for treatment on referral, authorise the payments which, in accordance with the Scale of Fees, fall to be made by the Agency to the contractor in respect of such an arrangement or referral; or
- (b) a continuing care arrangement or a capitation arrangement has terminated, or treatment on referral has terminated or has been completed, authorise the Agency to cease such payments to the contractor.

(2) The SDPB shall, where it approves a claim for remuneration made by a contractor, other than a salaried dentist, in respect of—

- (a) care and treatment under a continuing care arrangement or a capitation arrangement;
- (b) treatment on referral; or
- (c) occasional treatment;

authorise in accordance with the Scale of Fees, the remuneration to be paid by the Agency to the contractor in respect of such care and treatment, treatment on referral, or occasional treatment.

(3) In any case falling within paragraph 15 of Schedule 1 (inability to complete treatment), the SDPB shall authorise the remuneration to be paid by the Agency to a contractor, other than a salaried dentist, in respect of the care and treatment or occasional treatment provided in accordance with the Scale of Fees, and without prejudice to the provisions of the National Health Service (Dental Charges) (Scotland) Regulations 2003<sup>(43)</sup>.

(4) The Agency shall pay to a contractor, other than a salaried dentist, the remuneration—

- (a) authorised by the SDPB under paragraphs (1)(a), (2) and (3); and
- (b)
  - (i) in the case of a dentist (who is a contractor) in accordance with Determinations III, V, VI, VII, VIII, IX, Parts II and III of X, XI, XII, XIII, XIV and XV of the Statement of Dental Remuneration; or,
  - (ii) in the case of a dental body corporate in accordance with Determinations VIII, IX Parts II and III of X, XI, XIV and XV of the Statement of Dental Remuneration.

<sup>(43)</sup> S.S.I. 2003/158 as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

(5) A Health Board shall pay to a person providing emergency dental services remuneration in accordance with Determination II of the Statement of Dental Remuneration.

(6) The SDPB may at its discretion in cases of orthodontic care and treatment, authorise payments on account pending completion of that care and treatment.

(7) Where the SDPB has authorised a payment to a pilot scheme provider for providing personal dental services to a patient, it shall not authorise any payment under these Regulations in relation to the same patient to the same pilot scheme provider, or to any dentist performing personal dental services in connection with that pilot scheme, unless the patient has been referred under these Regulations for treatment by way of personal dental services under that pilot scheme.

### **Drugs**

**24.** The fees payable by a Health Board to a contractor in respect of listed drugs under paragraph 24 of Schedule 1 for use before a supply can otherwise be obtained under paragraph 24 of that Schedule, shall be calculated in accordance with the provisions of the Drug Tariff prepared by the Scottish Ministers under regulation 9 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009<sup>(44)</sup>, or under any corresponding provision replacing, or otherwise derived from, those regulations.

### **Recovery of overpayments**

**25.—**(1) Where the SDPB, the Agency or a Health Board considers that it has made a payment to a person owing to an error or in circumstances where it was not due, it shall, except to the extent that the Scottish Ministers on the application of the SDPB, the Agency or the Health Board direct otherwise, draw the overpayment to the attention of the person to whom that payment was made and the amount overpaid shall be recoverable as a debt by any lawful means.

(2) Recovery of an overpayment under the provisions of this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

## **PART IV**

### **PAYMENTS IN CONSEQUENCE OF SUSPENSION**

#### **Payments to dentists or bodies corporate suspended by a Health Board or by direction of the Tribunal**

**26.—**(1) A Health Board shall authorise the Agency to make payments to any dentist or body corporate suspended by the Health Board or by direction of the Tribunal, in accordance with the Scottish Ministers' Determination for the time being in force in relation to such payments.

(2) The Scottish Ministers shall make the Determination in accordance with paragraphs (3) and (4) after consultation with the organisations as appear to them to be representative of persons providing general dental services, and the Determination shall be published with the Statement of Dental Remuneration.

(3) Subject to paragraph (4), the Scottish Ministers' Determination—

- (a) shall determine any sum payable by reference to remuneration which the dentist or body corporate might have received during the period that person was suspended and may provide that the assessment of such remuneration shall take into account such factors and evidence as may be specified; and

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<sup>(44)</sup> S.S.I. 2009/183 as amended by S.S.I. 2009/209 and 2010/128.

(b) may also determine any sum payable by reference to any other payment received or which might have been received by the dentist or body corporate had that person not been suspended and may provide that the assessment of such remuneration shall take into account such factors and evidence as may be specified.

(4) The Scottish Ministers' Determination may include provision that payments under the Determination are not to exceed a specified amount in any specified period.

(5) The Scottish Ministers may from time to time after consultation with organisations that appear to them to be representative of persons providing general dental services, amend a Determination under this regulation or any part thereof and shall publish any such amendment with the Statement of Dental Remuneration.

(6) Where the Agency considers that it has made a payment to a dentist or body corporate owing to an error or in circumstances where it was not due, the Agency shall, except to the extent that the Scottish Ministers on the application of the Health Board direct otherwise, draw the overpayment to the attention of the dentist or body corporate and the amount overpaid shall be recoverable as a debt by any lawful means.

(7) If a dentist or body corporate (as the case may be) is dissatisfied with a decision of a Health Board ("the original decision")—

- (a) not to authorise the Agency to make a payment to, or in respect of, that person pursuant to a determination under this regulation;
- (b) to authorise the Agency to make a payment to, or in respect of, that person pursuant to a determination under this regulation, but at a lower level than the level to which the suspended dentist or body corporate (as the case may be) considers to be correct; or
- (c) in respect of recovery of what the Health Board considers to be an overpayment;

that person may ask the Health Board to review the original decision and, if that person does so, the Health Board shall reconsider the original decision, and once it has done so, it must notify that person in writing of the outcome of that reconsideration ("the reconsidered decision") and give that person notice of the reasons for the reconsidered decision.

## PART V

### PRIOR APPROVAL (PATTERNS OF TREATMENT) AND SURVEYS

#### **Prior approval - patterns of treatment**

**27.—**(1) Where in the opinion of the SDPB a dentist's pattern of treatment in respect of all or any particular description of treatment provided as part of general dental services in the area of any Health Board, differs so substantially from the local or national pattern of treatment of other dentists as to warrant further investigation, the SDPB may, after consulting the Agency about the matter, write to the dentist and any person by whom that dentist is employed or engaged in the provision of, or assistance with the provision of, general dental services ("the employer")—

- (a) giving details of the dentist's pattern of treatment in respect of all or any particular description of treatment and stating the extent to which it differs from the local or national pattern of treatment of other dentists;
- (b) inviting the dentist to submit to the SDPB in writing the reasons why the dentist's pattern of treatment differs from that local or national pattern; and
- (c) giving notice to the dentist and, where relevant, the employer that if—
  - (i) the dentist fails to reply within 28 days; or

- (ii) the dentist's reply discloses no reasonable grounds, in the opinion of the SDPB, for the dentist's pattern of treatment to differ from that local or national pattern of treatment;

the SDPB may give a direction as mentioned in paragraph (2).

(2) Where the dentist fails—

- (a) to reply within 28 days; or
- (b) to disclose the reasonable grounds as mentioned in paragraph (1)(c)(ii),

the SDPB may direct the dentist not to provide or assist in the provision of treatment, or a description of treatment specified in the direction, for a period between 3 months and 9 months as specified in the direction, without obtaining prior approval of an estimate from the SDPB, but nothing in any such direction shall prevent the dentist, without such approval, from providing or assisting in the provision of treatment following trauma or in an emergency, any private treatment or, in the course of any single consultation, treatment of a patient consisting of one examination and the taking of no more than 2 small radiographs, each of a size not exceeding 16 square centimetres.

(3) Where the SDPB gives a direction under paragraph (2), the direction shall inform the dentist of the dentist's right to appeal under regulation 29 and the direction shall have no effect until the expiry of the period allowed by that regulation for the bringing of an appeal and, if such an appeal is brought, until the determination of the appeal.

(4) The SDPB shall not give a direction to a dentist under paragraph (2) in consequence of having written to him under paragraph (1) more than 12 months previously.

(5) Where the SDPB gives a direction to a dentist under paragraph (2), it shall not give a further direction under that paragraph in relation to that dentist in respect of any treatment specified in the earlier direction for a period of 9 months beginning with the expiry of the period specified in the earlier direction or, where the dentist appeals that earlier direction and the appeal is allowed, the date on which the appeal is allowed.

(6) Paragraphs (1) and (2) shall not apply to any treatment for which a contractor is remunerated in accordance with Section X (treatment under capitation) of Determination I of the Statement of Dental Remuneration and for which the contractor receives no remuneration other than a capitation payment.

(7) Where, on the date on which the SDPB gives a direction under paragraph (2), the name of the dentist in respect of whom the direction is given is not included in any dental list, the period specified in the direction shall not begin until the day after the dentist's name is again included in a dental list.

(8) For the purpose of computing the date on which the period specified in any direction given under paragraph (2) comes to an end, no account shall be taken of any day on which the dentist's name is not included in any dental list.

(9) In this regulation—

- (a) “pattern of treatment” means—
  - (i) the number of instances in which an item or items of treatment are provided by or on behalf of a dentist; or
  - (ii) the ratio which the number of instances relating to one such item bears to the number of instances relating to another such item;
- (b) “local”, in relation to pattern of treatment, means in the Health Board's area; and
- (c) “national”, in relation to pattern of treatment, means throughout Scotland.

## **Surveys of the provision of general dental services**

**28.** The SDPB may conduct or commission surveys or other research relating to the provision of general dental services.

## **PART VI**

### **APPEALS FROM DECISIONS OF THE SDPB**

#### **Appeals from decisions of the SDPB**

**29.**—(1) This regulation applies to appeals which are permitted by paragraph (2) against decisions of the SDPB.

(2) Subject to paragraph (3), an appeal may be made to a Health Board in whose dental list the name of the contractor or dentist concerned is included—

- (a) by any person aggrieved by a decision of the SDPB concerning the treatment or intended treatment by the dentist concerned of a patient; or
- (b) by any contractor aggrieved by a decision of the SDPB concerning fees in respect of that contractor's provision or intended provision of general dental services; or
- (c) by any dentist aggrieved by a decision of the SDPB under regulation 27 (prior approval - patterns of treatment).

(3) Where the name of the contractor or dentist concerned in any appeal under paragraph (2) is included in the dental list of more than one Health Board, the appeal may be made—

- (a) in the case of an appeal under paragraph (2)(a), to the appropriate Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (b) in the case of an appeal by a contractor under paragraph (2)(b) to the appropriate Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (c) in the case of an appeal by a dentist under paragraph (2)(c)—
  - (i) in which the decision of the SDPB under regulation 27 was based on its opinion that the dentist's pattern of treatment in question differed substantially from the local pattern of treatment of other dentists, to the appropriate Health Board in whose area the pattern of treatment of other dentists has been the subject of comparison; or
  - (ii) in which the decision of the SDPB under regulation 27 was based on its opinion that the dentist's pattern of treatment in question differed substantially from the pattern of treatment of other dentists throughout Scotland, to any of the Health Boards in whose dental list the dentist's name is included,

and the Health Board to which the appeal is made is referred to in this regulation as "the relevant Health Board".

(4) For the purposes of this regulation, the parties to an appeal are the SDPB and the appellant, being the aggrieved person, or contractor or dentist as the case may be.

(5) Notice of appeal shall—

- (a) be given to the relevant Health Board in writing;
- (b) except where the relevant Health Board is satisfied that the lateness of the appeal is due to illness or other reasonable cause, be given within 4 weeks from the date on which the appellant received notice of the decision of the SDPB;
- (c) state the date on which the appellant was informed of that decision; and



- (d) contain a concise statement of the facts and contentions upon which it is intended to rely.
- (6) The relevant Health Board shall, within 4 weeks from the date of receipt of the notice of appeal, request from the SDPB a written statement of the reasons for its decision and the SDPB shall, within 4 weeks from the date of receipt of that request, send such a statement to the relevant Health Board.
- (7) Subject to paragraph (8), the relevant Health Board shall consider the notice of appeal and the statement of the SDPB and—
- (a) where the appeal is against a refusal of the SDPB to approve an estimate or claim for remuneration on the ground that the services to which the estimate or claim relate cannot be provided as part of general dental services, it shall refer the notice of appeal and the SDPB's statement to the Scottish Ministers, and on referring the appeal the relevant Health Board shall inform the parties of the referral;
  - (b) where, in an appeal by a contractor against a decision of the SDPB concerning fees, the SDPB certifies in its statement that it authorised those fees and that they were fees or maximum fees prescribed by Determination I of the Statement of Dental Remuneration for the services provided or to be provided, the relevant Health Board shall dismiss the appeal forthwith unless it is of the opinion that it involves a dispute as to the item or sub-item of treatment in that Determination applicable to those services;
  - (c) except where an appeal is dismissed or referred in accordance with the preceding provisions of this paragraph, the relevant Health Board shall, within 4 weeks from the date of receipt of the SDPB's statement, appoint—
    - (i) where the appeal is made under paragraph (2)(c), 3 dentists, and where such an appeal is made in connection with orthodontic treatment, one of the dentists shall be an orthodontist;
    - (ii) in an appeal under paragraph (2)(a) or (b), 2 dentists, and where such an appeal is made in connection with orthodontic treatment, one of the dentists shall be an orthodontist; and
    - (iii) a chairperson who is not a dentist and who may be legally qualified, as referees to determine the appeal.
  - (d) the relevant Health Board shall select one of the dentists from a panel of dental practitioners who are engaged in the provision of general dental services and who is nominated by the area dental committee, failing which the area dental committee for the area of another Health Board.
- (8) Where, after considering the notice of appeal and the statement of the SDPB, the relevant Health Board is of the opinion that the notice of appeal discloses no reasonable grounds of appeal or that the appeal is otherwise trivial or vexatious, the relevant Health Board may determine the appeal by dismissing it forthwith.
- (9) Where the relevant Health Board dismisses an appeal under paragraph (7) or (8), it shall—
- (a) send the parties a copy of the decision together with its reasons for it; and
  - (b) in the case of a dismissal under paragraph (7)(b), send the appellant a copy of the SDPB's statement.
- (10) Where an appeal is referred to the Scottish Ministers under paragraph (7)(a), the Scottish Ministers shall—
- (a) determine the appeal in such manner as they think fit; and
  - (b) as soon as may be practicable after they have determined the appeal, which shall be final and conclusive, send the parties and the relevant Health Board a copy of their decision together with their reasons for it.

(11) Where, under paragraph (7)(c), the relevant Health Board appoints referees to determine the appeal, the Health Board shall—

- (a) fix a date for the hearing of the appeal;
- (b) at least 2 weeks before the hearing (or within such shorter period as the parties may agree), give notice in writing to the parties of the date, time and place of the hearing and of the names of the referees;
- (c) at least 7 days before the hearing (or within such shorter period as the parties may agree), provide—
  - (i) the referees and the appellant with a copy of the SDPB’s statement; and
  - (ii) the referees and the SDPB with a copy of the notice of appeal.

(12) Where the parties to an appeal, to whom notice of a hearing has been sent under paragraph (11), notify the relevant Health Board in writing prior to the date of the hearing, that they do not intend to make oral representations at a hearing—

- (a) the relevant Health Board shall inform the referees forthwith; and
- (b) the referees shall thereafter determine the appeal without holding a hearing.

(13) Subject to paragraph (14), if in the course of a hearing a party introduces any issue which in the opinion of the referees was not sufficiently disclosed in the notice of appeal by the appellant or statement by the SDPB, the referees may as they think fit admit or refuse to admit such issue.

(14) Where the referees intend to admit an issue under paragraph (13), the hearing shall be adjourned for such period as the referees consider necessary unless the other party requests that the hearing should proceed and the referees agree to do so.

(15) As soon as may be practicable after being informed that—

- (a) a hearing is not necessary; or
- (b) a hearing has been held,

the referees shall determine the appeal and notify the relevant Health Board in writing of their decision, which shall be final and conclusive, and their reasons for it.

(16) After the relevant Health Board receives notice of the referees’ decision under paragraph (15), they shall, within 2 weeks from the date of receipt of that notice, send a copy of it to each of the parties.

## PART VII

### MISCELLANEOUS

#### **Publication of particulars**

**30.** Copies of the dental list, the local directory of dentists (as defined in regulation 9), these Regulations including the terms of service, the lists of listed drugs and the Statement of Dental Remuneration shall be kept revised and up to date and shall be made available for inspection at the offices of the Health Board and such other places in the Health Board’s area as appear to the Health Board to be convenient.

#### **Service of notices etc**

**31.—**(1) Any notice or document which is required or authorised by these Regulations to be sent to or served on any person or body may be sent or served as follows—

- (a) in the case of the Scottish Ministers, by delivering it to them or sending it by post addressed to them at St Andrew's House, Edinburgh;
- (b) in the case of a Health Board, by delivering it to the Chief Executive or by sending it by post addressed to the Chief Executive at the Health Board's principal office;
- (c) in the case of a dentist, by delivering it to the dentist or by sending it by post addressed to the dentist at the practice premises stated in the dental list, or the dentist's private address;
- (d) in the case of a body corporate, by delivering it or sending it by post to the body corporate's registered office, or to its practice premises stated in the dental list;
- (e) in the case of any other person, by delivering it to that person or by sending it by post addressed to that person at that person's usual or last known address.

(2) Unless the contrary is proved, any notice or document sent in accordance with this regulation shall be deemed to be received at the time at which a letter would be delivered in the ordinary course of post.

### Signatures

**32.**—(1) With the exception of claims submitted by computer in accordance with the provisions of paragraph 20(2) of Schedule 1, and estimates submitted by computer in accordance with the provisions of paragraph 29(2) and (3) of Schedule 1, any signature required by these Regulations (including the terms of service) shall be in handwriting and not by means of a stamp and the name and position of the signatory shall be clearly stated.

(2) Any signature required by these Regulations shall be the signature of the relevant dentist or, in the case of a body corporate, a director.

### Revocations, savings and transitional provisions

**33.**—(1) Subject to paragraphs (2) and (3), the Regulations specified in Schedule 7 ("the revoked Regulations") are hereby revoked.

(2) In respect of any general dental services provided under the revoked Regulations, payments shall be made as though the revoked Regulations and determinations made under them and in force at the relevant time continue to be in force as regards those services.

(3) (a) Sub-part A of the first part of a Health Board's dental list on 2nd July 2010 shall be deemed to include the name of any dentist whose name was included in Part A of the dental list of that Health Board kept under regulation 4(1A) (dental list) of the 1996 Regulations<sup>(45)</sup> ("the previous dental list") on 1st July 2010, together with all the information relating to that person which is contained in the previous dental list;

(b) sub-part B of the first part of a Health Board's dental list on 2nd July 2010 shall be deemed to include the name of any dentist whose name was included in Part B of the dental list of that Health Board kept under regulation 4(1B) (dental list) of the 1996 Regulations ("the previous dental list") on 1st July 2010, together with all the information relating to that person which is contained in the previous dental list;

(c) a dentist whose name is deemed to be included in a Health Board's dental list by virtue of sub#paragraphs (a) or (b) shall be bound by the terms of service in these Regulations.

(4) Any action taken by or on behalf of a Health Board before 2nd July 2010 in relation to its previous dental list (or in relation to the persons or entries thereon), shall have effect on and after 2nd July 2010 as if such action had been taken by that Health Board in relation to the first part of the dental list maintained by that Health Board on 2nd July 2010 or in relation to the persons or entries thereon; however this paragraph shall not have the effect of extending any time limit or period which

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(45) S.I. 1996/177.

governed any such action under the 1996 Regulations when such action is deemed to have taken place on 2nd July 2010.

(5) Any action taken by or on behalf of any other person before 2nd July 2010 in relation to the previous dental list of a Health Board (or in relation to the persons or entries thereon) shall have effect on and after 2nd July 2010 as if such action had been taken in relation to the first part of the dental list maintained by that Health Board on 2nd July 2010 or in relation to the persons or entries thereon; however this paragraph shall not have the effect of extending any time limit or period which governed any such action under the 1996 Regulations when such action is deemed to have taken place on 2nd July 2010.

(6) Any dentist whose name is deemed to be included in the dental list of a Health Board in terms of paragraph (3) shall no later than 1st October 2010—

- (a) submit to the Health Board in whose area the dentist derives most income from general dental services an enhanced criminal certificate in relation to that dentist dated not earlier than 28 days before the date of the submission to the Health Board;
- (b) for a dentist in sub-part A of the first part of a dental list provide the Health Board with the information, declarations, certificate, undertakings and consents specified in Part IA of Schedule 2 and the information contained therein insofar as this has not already been provided; and
- (c) for a dentist in sub-part B of the first part of a dental list provide the Health Board with the information, declarations, certificate undertakings and consents specified in Part IB of Schedule 2 and the information contained therein insofar as this has not already been provided.

(7) A Health Board which receives an enhanced criminal certificate under paragraph (6)(a) shall share the information contained in the certificate with any other Health Board in whose area the dentist provides general dental services.

(8) The Health Board may extend the period prescribed in sub-paragraph (6) for such time as it considers appropriate in the circumstances of the case if it thinks it is not reasonably practicable for that dentist to provide it with such certificate, declarations and consent within the prescribed period.

(9) Any dentist who wishes to be included in the second part of a Health Board's dental list shall be entitled to assist in the provision of general dental services in the Health Board's area without the name of that person being included in that list until 1st October 2010.

(10) The provisions of this regulation are without prejudice to the provisions of section 16 or 17 of the Interpretation Act 1978(46).

### **Consequential Amendments**

**34.** The provisions listed in Schedule 8 are amended as specified in that Schedule.

### **Schedules**

**35.** Schedules 3 (information to be provided about care and treatment under general dental services), 4 (prior approval of care and treatment) and 5 (information to be included in patient information leaflets) shall have effect.

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

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St Andrew's House, Edinburgh  
20th May 2010

*SHONA ROBISON*  
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 3

TERMS OF SERVICE FOR DENTISTS

ARRANGEMENT OF PARAGRAPHS

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### PART I

### GENERAL

#### **Interpretation**

1. In these terms of service, unless the context otherwise requires—
  - (a) “the Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 2010;
  - (b) any reference to a numbered regulation is a reference to the regulation bearing that number in the Regulations;
  - (c) any reference to a numbered paragraph is a reference to the paragraph bearing that number in these terms of service, and any reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph;

- (d) any reference to a numbered Schedule is a reference to the Schedule to the Regulations bearing that number.

### **Incorporation of provisions of Regulations**

**2.** Any provisions of the following affecting the rights and obligations of contractors and dentists shall be deemed to form part of the terms of service:—

- (a) the Regulations;
- (b) so much of the National Health Service (Discipline Committees) (Scotland) Regulations 2006(47) as relates to—
  - (i) the investigation of allegations that a contractor or a dentist has failed to comply with the terms of service, and other investigations to be made by the dental discipline committee and the joint discipline committee into the provision of general dental services and the action which may be taken by the Health Board as a result of such investigations;
  - (ii) any decision of the Scottish Ministers (whether on appeal or otherwise) in connection with any investigation referred to in head (i) of this sub-paragraph or with any decision of the Health Board; and
  - (iii) the investigation of record keeping;
- (c) regulations 4(4) and 6(2) of the National Health Service (Dental Charges) (Scotland) Regulations 2003(48); and
- (d) the National Health Service (Tribunal) (Scotland) Regulations 2004(49).

### **General dental services**

**3.—(1)** In providing general dental services for any person under these Regulations a contractor shall provide for—

- (a) a person aged 18 or over with whom a continuing care arrangement has been entered into, care and treatment under that arrangement; or
  - (b) for a person under the age of 18 with whom a capitation arrangement has been entered into, care and treatment under that arrangement.
- (2) A contractor may provide general dental services under the Regulations by way of—
- (a) treatment on referral for a person who is receiving dental services from another dentist (whether or not pursuant to the Act); or
  - (b) occasional treatment for any person—
    - (i) who is receiving care and treatment with another contractor under an arrangement mentioned in sub-paragraph (1)(a) or (b);
    - (ii) who does not wish to enter into an arrangement mentioned in sub#paragraph (1)(a) or (b);
    - (iii) with whom the contractor is not prepared to enter into an arrangement mentioned in sub#paragraph (1)(a) or (b); or
    - (iv) who is referred to the contractor under paragraph 14(1).

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(47) S.S.I. 2006/330, as amended by S.S.I. 2009/308.

(48) S.S.I. 2003/158 as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

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



## PART II

### CONTINUING CARE ARRANGEMENT, CAPITATION ARRANGEMENT AND TREATMENT ON REFERRAL

#### **A continuing care arrangement**

4.—(1) A contractor who accepts a person for care and treatment under a continuing care arrangement shall—

- (a) at the time at which the contractor accepts the patient provide the patient with the information about care and treatment under general dental services which is set out in Schedule 3 and with a form of acceptance supplied by the Health Board, or form to like effect, which shall specify—
  - (i) the name of the patient;
  - (ii) the name of the dentist who will carry out the care and treatment;
  - (iii) particulars of the places where the patient will receive care and treatment; and
  - (iv) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
  - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
  - (ii) the approximate period following which a further examination is recommended by the dentist;
  - (iii) the dentist's estimate of the NHS charge, if any, in respect of that care and treatment; and
  - (iv) any proposals which the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where at any time during the currency of a continuing care arrangement—
  - (i) the circumstances specified in sub-paragraph (2) apply; or
  - (ii) in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) or this paragraph needs to be varied;the patient is provided with a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub#paragraph;
- (d) complete the care and treatment (if any)—
  - (i) which is referred to in paragraph (b)(i) of this sub-paragraph; and
  - (ii) where sub-paragraph (2) does not apply, any care and treatment which is in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health;
- (e) provide the patient with emergency cover in accordance with paragraph 6; and

- (f) repair or replace in accordance with paragraph 7 any restoration which requires repair or replacement.
- (2) The circumstances in which the obligation mentioned in sub-paragraph (1)(c)(i) applies are where—
  - (a) the patient requests a new plan for treatment;
  - (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or
  - (c) the care and treatment which is to be provided includes any of the items of treatment mentioned in sub-paragraph (3).
- (3) The items of treatment referred to in sub-paragraph (2)(c) (and also in paragraph 5(2)(c)) are—
  - (a) non-surgical treatment of chronic periodontal diseases which is likely to involve 3 or more visits;
  - (b) provision of 3 or more permanent fillings;
  - (c) endodontic treatment;
  - (d) provision of a veneer, inlay, pinlay, crown or bridge;
  - (e) all surgical treatment other than the extractions of teeth;
  - (f) the extraction of—
    - (i) more than 2 teeth; or
    - (ii) any tooth which, in the opinion of the dentist, is likely to present special difficulty;
  - (g) provision of sedation in connection with any item of treatment;
  - (h) provision of prosthetic appliances; and
  - (i) orthodontic care and treatment.
- (4) Where a contractor accepts the transfer of a continuing care arrangement the contractor shall provide the patient with the information specified in sub-paragraphs (1)(a)(ii) to (iv) and assume the obligations set out in sub-paragraphs (1)(c) to (f).
- (5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.
- (6) Where a person who is in prison is accepted for care and treatment by a contractor the contractor shall ensure that a dentist examines the person at the time he or she is accepted for care and treatment.

### **A capitation arrangement**

- 5.—(1) A contractor who accepts a person for care and treatment under a capitation arrangement shall—
- (a) ensure that at the time at which the contractor accepts the patient, or, where sub-paragraph (3) applies at the time of a dentist's first examination of the patient, a dentist shall examine the patient and chart the patient's decayed, missing or filled teeth on the form supplied by the Health Board, or a form to like effect;
  - (b) ensure that, except where sub-paragraph (3) applies, following the dentist's first examination of the patient, the dentist shall provide to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding—

- (i) appropriate education, advice, a care programme relating to the oral health needs of the patient; and
- (ii) information about care and treatment under general dental services which is set out in Schedule 3, and with a form of acceptance supplied by the Health Board, or a form to like effect which shall specify—
  - (aa) the name of the patient;
  - (bb) the name of the dentist who will provide the care and treatment;
  - (cc) particulars of the places where the patient will receive care and treatment; and
  - (dd) the telephone number at which the dentist who will provide the care and treatment to the patient, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (c) ensure that at the time of the first examination of the patient, the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient, or the patient where in the opinion of the dentist the patient is capable of understanding a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
  - (i) details of the care and treatment (if any) which in the opinion of the dentist, at the date of that examination, is necessary to secure and maintain the oral health of the patient;
  - (ii) the approximate period following which a further examination is recommended by the dentist; and
  - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (d) ensure that where at any time during the currency of a capitation arrangement—
  - (i) the circumstances specified in sub-paragraph (2) apply; or
  - (ii) in the opinion of the dentist, the care and treatment included in a plan for treatment provided under paragraph (c) or this head of this sub-paragraph needs to be varied;
 

the dentist provides to at least one of the patient's parents, guardians or other person with care or control of the patient or, the patient where in the opinion of the dentist the patient is capable of understanding, a new plan for treatment or, as the case may be, a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (c) of this sub#paragraph;
- (e) complete the care and treatment (if any)—
  - (i) which is referred to in paragraph (c)(i) of this sub-paragraph; and
  - (ii) where sub-paragraph (2) does not apply, any care and treatment which is, in the opinion of the dentist at the date of any examination of the patient, necessary to secure and maintain the patient's oral health; and
- (f) provide the patient with emergency cover in accordance with paragraph 6.
- (2) The circumstances referred to in sub-paragraph (1)(d)(i) are that—
  - (a) the patient requests a new plan for treatment;
  - (b) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or

(c) the care and treatment which is to be provided includes any of the items of treatment mentioned in paragraph 4(3).

(3) A dental nurse or dental therapist can, on behalf of a contractor, accept a patient under the age of three years of age for care and treatment under a capitation arrangement and in so doing shall, at the time at which the patient is accepted, provide to at least one of the patient's parents, guardians or other person with care or control of the patient the appropriate education, advice, care programme, information and forms specified in sub-paragraph (1)(b).

(4) Where a contractor accepts the transfer of a capitation arrangement it shall provide the patient with the information specified in sub-paragraph (1)(b)(ii)(bb) to (dd) and assume the obligations set out in sub-paragraph (1)(d) to (f).

(5) Where the contractor is informed that the contractor to whom a patient has been referred under paragraph 12 has died and is aware that the particular care and treatment for which the patient was referred has not been completed, the contractor shall inform the patient and refer the patient to another contractor in accordance with paragraph 12 for completion of that care and treatment.

### **Emergency cover**

6.—(1) Subject to paragraph 18, in providing emergency cover under a continuing care arrangement or a capitation arrangement, a contractor shall make reasonable arrangements to secure that a patient requiring prompt care and treatment will receive such care and treatment as soon as appropriate either from the contractor or from another contractor or dentist.

(2) For the purposes of sub-paragraph (1) a patient requires prompt care and treatment where, in the opinion of a dentist—

(a) the patient's oral health is likely to deteriorate significantly without such care and treatment; or

(b) the patient is in severe pain by reason of the patient's oral condition,

but the provision of emergency cover does not include any obligation to repair or replace dentures.

(3) The obligation to provide emergency cover begins on the date on which the patient and the contractor enter into the continuing care arrangement or the capitation arrangement and ceases when that arrangement is terminated.

### **Repair or replacement of restorations**

7.—(1) Subject to sub-paragraph (3) the contractor shall, as part of a continuing care arrangement, repair or replace at no charge to the patient any restoration specified in sub-paragraph (2) which the contractor or another contractor or dentist acting on the contractor's behalf or from whom the continuing care arrangement was transferred had provided by way of personal dental services in connection with a pilot scheme or, has provided under general dental services—

(a) under that continuing care arrangement; or

(b) under a capitation arrangement, with or transferred to that contractor where on termination of that arrangement the patient has immediately entered into the continuing care arrangement.

(2) The restorations referred to in sub-paragraph (1) are any filling, root filling, inlay, pinlay or crown which, within 12 months of the date on which it was provided, has to be repaired or replaced to secure oral health.

(3) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (1) where—

(a) within 12 months after the date on which the restoration was provided—

- (i) a dentist has provided private treatment; or
  - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,  
on the tooth in respect of which the restoration was provided;
  - (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with paragraph 4(1)(b) or (c) or 5(1)(c) or (d) and on the patient record that—
    - (i) the restoration was intended to be temporary in nature; or
    - (ii) in the dentist’s opinion, a different form of restoration was more appropriate to secure oral health but, notwithstanding that advice, the patient insisted on the restoration which was provided;
  - (c) in the dentist’s opinion the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
  - (d) the repair or replacement is required as a result of trauma.
- (4) The obligation to repair or replace any restoration under sub-paragraph (1) begins on the date on which the patient and the contractor enter into the continuing care arrangement and ceases when that arrangement is terminated.

#### **Duration of a continuing care arrangement**

8. A continuing care arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
  - (b) shall terminate where—
    - (i) the patient enters into a continuing care arrangement with another dentist;
    - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the care and treatment which might have otherwise been provided under the continuing care arrangement is to be provided privately; or
    - (iii) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal’s direction arrange for it to be transferred to another dentist under regulation 18.

#### **Duration of a capitation arrangement**

9. A capitation arrangement—
- (a) may be terminated by the dentist or the Health Board in accordance with paragraph 10;
  - (b) shall terminate where—
    - (i) the patient enters into a capitation arrangement with another dentist;
    - (ii) the patient enters into an arrangement with the dentist or another dentist whereby the whole of the capitation and care arrangement is to be provided privately;
    - (iii) the patient attains the age of 18;
    - (iv) the dentist is suspended by direction of the Tribunal and the Health Board does not within the period of one month beginning with the date of the Tribunal’s direction arrange for it to be transferred to another dentist under regulation 18.

### **Termination of a continuing care arrangement or a capitation arrangement**

**10.**—(1) Subject to sub-paragraphs (4) and (7) and paragraph 11, a contractor who wishes to terminate a continuing care arrangement before it terminates in accordance with paragraph 8, or a capitation arrangement before it terminates in accordance with paragraph 9, shall give to the patient not less than 3 months' notice in writing of the termination of the arrangement.

(2) Where a contractor gives notice under sub-paragraph (1), it shall use its best endeavours to complete satisfactorily, or secure the satisfactory completion before the termination of the arrangement of, any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice and any further treatment that may be necessary to secure and maintain the oral health of the patient.

(3) Where a contractor gives notice under sub-paragraph (1), it shall at the same time advise the Health Board in writing that such notice has been given, and give details to the Health Board of any care and treatment which it has been agreed the patient will receive and which is outstanding at the date of the notice including any arrangements made for completion of that care and treatment.

(4) Subject to sub-paragraph (7) and paragraph 11, where a contractor wishes a continuing care arrangement or a capitation arrangement to be terminated on less than 3 months' notice, it shall apply in writing to the Health Board—

- (a) asking for the Health Board's consent to the contractor terminating the arrangement;
- (b) setting out the reasons why it wishes the arrangement to be terminated; and
- (c) giving details of any care and treatment which it has been agreed the patient will receive and which is outstanding including any arrangements made for completion of that care and treatment.

(5) Where a contractor applies to the Health Board under sub-paragraph (4), the Health Board may, after considering any representations made by the patient, consent to the termination of the arrangement on such date and on such terms as to completion of any outstanding care and treatment mentioned in sub-paragraph (4)(c) as it thinks fit, save that, where an arrangement is terminated because the patient has refused to pay the NHS charge, the contractor shall not be obliged to complete that care and treatment.

(6) A Health Board which consents to the termination of an arrangement under sub-paragraph (5) shall so inform the patient, contractor and the SDPB in writing that the arrangement has been terminated with the Health Board's consent.

(7) Where—

- (a) under section 5 (approval of pilot schemes) of the 1997 Act the Scottish Ministers have approved a proposal for a pilot scheme under which personal dental services are to be provided, or such a proposal has been subsequently varied with agreement of the Scottish Ministers or, as the case may be, in a manner authorised by directions given by the Scottish Ministers under section 6 (making of pilot schemes) of that Act; and
- (b) under the proposal (or the varied proposal) a patient would be treated under the pilot scheme and not under a continuing care arrangement or a capitation arrangement,

the pilot scheme provider shall give to him such notice of the termination of the arrangement as is required under the pilot scheme.

### **Violent patients**

**11.**—(1) Where—

- (a) a person, with whom a contractor has a continuing care arrangement or a capitation arrangement, has committed an act of violence against any dentist, dental care professional

or any other person employed or engaged by the contractor or has behaved in such a way that such a person has feared for his or her safety; and

(b) the contractor or a person on the contractor's behalf has reported the incident to the police, the contractor may notify the Health Board that the contractor wishes the arrangement to be terminated immediately.

(2) Notification under sub-paragraph (1) may be given by any means including telephone, e#mail or fax, but if not given in writing shall subsequently be confirmed in writing before the end of the period of seven days beginning with the date of the notification under sub-paragraph (1) (and, for this purpose a faxed or e#mailed confirmation is not a written one).

(3) The time at which the contractor notifies the Health Board shall be the time at which the contractor makes the telephone call or otherwise sends or delivers the notification to the Health Board.

(4) Where pursuant to this paragraph a contractor has notified the Health Board that it wishes a continuing care arrangement or a capitation arrangement with any person to be terminated immediately, the Health Board shall take all reasonable steps to inform the person concerned.

### **Referral to another contractor or to a hospital or other service**

**12.—**(1) Where a patient requires particular care and treatment under a continuing care arrangement or a capitation arrangement and the contractor with whom the patient has made the arrangement cannot provide the necessary facilities, experience or expertise to provide that care and treatment, it shall, if the patient agrees, refer the patient in accordance with sub-paragraph (2) for the provision of that care and treatment by another contractor under general dental services or personal dental services or by a hospital or other service provided under Part III of the Act.

(2) In referring a patient under sub-paragraph (1) to another contractor or to a hospital or other service for that care and treatment, the contractor shall—

(a) give details of—

(i) the oral condition of the patient and the reason for the referral; and

(ii) if relevant to the referral, details of the care and treatment the contractor has provided or intends to provide in order to secure and maintain the patient's oral health,

to that other contractor or, as the case may be, that hospital or other service, either at the time of referral or as soon as practicable afterwards;

(b) include with those details a statement of the amount paid to the contractor by the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003<sup>(50)</sup> in respect of any care and treatment already provided in the course of the care and treatment during which the referral is made; and

(c) indicate in the claim for remuneration in respect of that course of care and treatment that the patient has been referred for the required care and treatment.

### **Referral to dental students**

**13.—**(1) Where the conditions laid down in sub-paragraph (2) are met, and where a dentist considers it suitable to do so, the dentist may refer a patient for care and treatment by a dental student.

(2) The conditions referred to in sub-paragraph (1) are—

(a) that the patient has been informed that the referral is for care and treatment by a dental student and the patient has consented to that referral; and

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<sup>(50)</sup> S.S.I. 2003/158, as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

- (b) that the dental student who will provide the care and treatment shall be a dental student under the supervision of a dentist.

### **Treatment on referral**

**14.—(1)** Subject to sub-paragraphs (2) and (3), a contractor may accept a patient who has been referred to the contractor by another dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule for particular care and treatment.

(2) Subject to sub-paragraph (3) a contractor shall not accept a patient for orthodontic treatment unless that patient has been referred to the contractor for such treatment by a dentist who is providing or assisting with the provision of dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule.

(3) A contractor may only accept a patient who presents for orthodontic treatment without being referred under sub-paragraph (2) if the contractor has obtained the prior approval in writing of the SDPB to the effect that the SDPB is satisfied that there are exceptional circumstances which allow the patient to so present.

(4) Subject to paragraph (5) a contractor who accepts a patient for treatment under sub#paragraphs (1), (2) or (3) shall—

- (a) at the time at which the contractor accepts the patient, provide the patient with a form of acceptance supplied by the Health Board, or a form to like effect, which shall specify—
  - (i) the name of the patient;
  - (ii) the name of the dentist who will carry out the care and treatment;
  - (iii) particulars of the places where the patient will receive care and treatment; and
  - (iv) the telephone number at which the dentist, or a deputy, may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) ensure that at the time of the first examination of the patient by a dentist, the dentist provides the patient with a plan for treatment on a form supplied by the Health Board, or a form to like effect, which shall specify—
  - (i) details of the care and treatment which, in the opinion of the dentist, at the date of that examination, is necessary for the dentist to provide having regard to the reason for the referral;
  - (ii) the dentist's estimate of the NHS charge (if any) in respect of that care and treatment;
  - (iii) any proposals the dentist may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) ensure that where, in the opinion of the dentist, the care and treatment included in the plan for treatment provided under paragraph (b) of this sub-paragraph needs to be varied, the dentist provides the patient with a revised plan for treatment in accordance (except as to the time of its provision) with paragraph (b) of this sub-paragraph;
- (d) complete the care and treatment, which is referred to in paragraph (b)(i) of this sub#paragraph;
- (e) until such time as the treatment on referral has been completed, provide the patient with emergency cover in accordance with paragraph 6(1) and (2), but only to the extent that the patient requires prompt care and treatment in relation to the particular care and treatment for which the patient has been referred or for which the patient has presented; and
- (f) repair or replace in accordance with sub-paragraph (2) any restoration which requires repair or replacement.



(5) Subject to sub-paragraphs (3) and (4), a contractor shall in the course of treatment on referral repair or replace at no charge to the patient any of the following restorations, namely, filling, root filling, inlay, pinlay or crown which has to be repaired or replaced and which was provided by or on behalf of the contractor in the course of the treatment on referral.

(6) A contractor shall not be under an obligation to repair or replace any restoration under sub-paragraph (5) where—

- (a) within 12 months after the date on which the restoration was provided—
  - (i) a dentist has provided private treatment; or
  - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,on the tooth in respect of which the restoration was provided;
- (b) the dentist who carried out the restoration advised the patient at the time of the restoration and indicated on any plan for treatment provided to the patient in accordance with sub-paragraph (4)(b) or (c) and on the patient record that—
  - (i) the restoration was intended to be temporary in nature; or
  - (ii) in the dentist's opinion, a different form of restoration was more appropriate but, notwithstanding that advice, the patient insisted on the restoration which was provided;
- (c) in the dentist's opinion, the condition of the tooth in respect of which the restoration was provided is such that the restoration cannot satisfactorily be repaired or replaced and different treatment is now required; or
- (d) the repair or replacement is required as a result of trauma.

(7) The obligation to repair or replace any restoration under sub-paragraph (5) shall cease 12 months after the date on which the restoration was provided or when the treatment on referral has been completed, whichever is the sooner.

(8) Sub-paragraph (4)(b) shall not apply where a patient is referred to a dentist for examination and advice only.

#### **Inability of contractor to complete care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral**

15. If, owing to any cause beyond the contractor's control, or to the contractor taking up the performance of personal dental services in connection with a pilot scheme, the contractor is unable to complete any care and treatment which has been commenced under a continuing care arrangement or a capitation arrangement or treatment on referral, the contractor shall forthwith notify the SDPB in writing of the extent of the care and treatment or treatment on referral provided and of the reason for the contractor's inability to complete the remainder.

#### **Care and treatment summaries**

16. Where a patient who has been receiving care and treatment under a continuing care arrangement or a capitation arrangement requests the contractor to provide the patient with a summary of the care and treatment which the patient has received under that arrangement because the patient intends to enter into such an arrangement with another contractor, the contractor shall provide such a summary as the contractor considers appropriate (including details of any care and treatment which could not be easily observed on a visual examination), to the patient on a form supplied by the Health Board, or a form to like effect, within 28 days of the request.

### **Mixing of general dental services and private care and treatment**

17.—(1) Subject to sub-paragraph (3), a contractor may, with the consent of the patient provide privately any part of the care and treatment—

- (a) necessary under a continuing care arrangement or a capitation arrangement to secure and maintain the oral health of a patient; or
- (b) to be provided as part of treatment on referral.

(2) A contractor or a dentist assisting that contractor in the provision of general dental services shall not, with a view to obtaining the agreement of a patient to undergo care and treatment privately

- (a) advise a patient falsely that the care and treatment which is necessary in the patient's case
  - (i) under the continuing care arrangement or capitation arrangement with a contractor to secure and maintain oral health; or
  - (ii) having regard to the reason given for referral, is not available from that contractor under general dental services; or
- (b) seek to mislead the patient about the quality of care and treatment available under general dental services.

(3) Sub-paragraph (1) shall not apply—

- (a) where the treatment necessary to secure oral health relates to a single tooth, in which case the treatment shall be provided wholly under general dental services or wholly privately;
- (b) in respect of orthodontic care and treatment in which case—
  - (i) the assessment, diagnosis and planning of treatment in connection with the orthodontic care and treatment shall be provided wholly under general dental services or wholly privately; and
  - (ii) the orthodontic treatment shall be provided wholly under general dental services or wholly privately;
- (c) to the provision privately of general anaesthesia in association with any care and treatment provided under general dental services.

## **PART III**

### **OCCASIONAL TREATMENT**

#### **Occasional treatment**

18.—(1) Whether or not a patient has entered into a continuing care arrangement or capitation arrangement with a contractor, another contractor who is not acting on behalf of that contractor may provide items listed in sub-paragraph (2) as occasional treatment.

(2) For the purposes of sub-paragraph (1) the listed items are—

- (a) assessment of, and the giving of advice to, a patient;
- (b) the issuing of a prescription except in connection with the items of treatment specified in paragraphs (e), (h) and (i) below;
- (c) a radiological examination and radiographic report except in connection with the items of treatment specified in paragraph (i) below;
- (d) the dressing of deciduous or permanent teeth and other palliative treatment;

- (e) the repair and refixing of inlays, crowns and bridges, including, where immediately necessary, the provision of temporary crowns;
- (f) the extraction of deciduous or permanent teeth;
- (g) the provision of post-operative care;
- (h) the provision of sedation;
- (i) the replacement, repair or alterations of dentures or other dental appliances;
- (j) urgent treatment for acute conditions of the gingivae or oral mucosa, including treatment for pericoronitis or for ulcers and herpetic lesions, and any necessary oral hygiene instruction in connection with such treatment;
- (k) any treatment immediately necessary as a result of trauma;
- (l) domiciliary visits and recalled attendance;
- (m) conservative treatment of permanent or retained deciduous teeth by way of filling or root fillings; and
- (n) in respect of patients aged under 18, conservative treatment of no more than 2 deciduous teeth.

(3) Where the contractor, due to any cause beyond the control of the contractor is unable to complete a course of occasional treatment, the contractor shall forthwith notify the SDPB in writing of the extent of the occasional treatment provided and the reason the contractor is unable to complete the remainder of the treatment.

(4) Subject to sub-paragraphs (5) and (6), where a contractor has provided conservative treatment by way of any filling or root filling in accordance with sub-paragraph (2)(m), the contractor shall repair or replace the filling in question at no charge to the patient.

(5) A contractor shall not be under an obligation to repair or replace any filling under sub-paragraph (2)(m) where—

- (a) within 12 months after the date on which the filling was provided—
  - (i) a dentist has provided private treatment; or
  - (ii) another contractor has provided occasional treatment otherwise than of a temporary nature,
 on the tooth in respect of which the filling was provided;
- (b) the dentist who carried out the treatment advised the patient at the time of the filling and indicated on the patient record—
  - (i) that the filling was intended to be temporary in nature; or
  - (ii) that in the dentist's opinion a different form of filling was more appropriate but, notwithstanding that advice, the patient insisted on the filling which was provided;
- (c) in the dentist's opinion, the condition of the tooth in respect of which the filling was provided is such that the filling cannot satisfactorily be repaired or replaced and different treatment is now required; or
- (d) the repair or replacement is required as a result of trauma.

(6) The obligation to repair or replace any filling under sub-paragraph (2)(m) shall cease 12 months after the date on which the filling was provided.

### **Referral for occasional treatment**

**19.—(1)** Where a patient requires any occasional treatment and the contractor from whom the patient requests such treatment does not have the necessary facilities, experience or expertise to provide that occasional treatment, the contractor shall, if the patient agrees, refer the patient

in accordance with sub-paragraph (2) for the provision of that occasional treatment by another contractor under general dental services or personal dental services or by a hospital or other service provided under Part III of the Act.

(2) In referring a patient under sub-paragraph (1) to another contractor or to a hospital or other service for that occasional treatment, the contractor shall—

- (a) give details of the oral condition of the patient and the reason for the referral to that other contractor or, as the case may be, that hospital or other service, either at the time of referral or as soon as practicable afterwards;
- (b) include with those details a statement of the amount paid to the contractor by the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003<sup>(51)</sup> in respect of any occasional treatment already provided in the course of the occasional treatment during which the referral is made; and
- (c) indicate in the contractor's claim for remuneration in respect of that course of occasional treatment that the patient has been referred for the required occasional treatment.

(3) Subject to sub-paragraph (4) a contractor shall only accept a patient referred for occasional treatment where the patient has been referred to the contractor under sub-paragraph (1) and shall provide only the occasional treatment which, in the opinion of the dentist, it is necessary for the contractor to provide having regard to the reason for the referral.

(4) A contractor may accept a patient who presents for the occasional treatment listed in paragraph 18(2)(m) only, providing the prior approval in writing of the SDPB has been obtained to the effect that the SDPB is satisfied that there are exceptional circumstances which allow the patient to present for that treatment.

## PART IV

### ADDITIONAL TERMS OF SERVICE FOR ALL DENTISTS

#### Remuneration

**20.**—(1) Subject to regulation 22 (statement of dental remuneration) and this Schedule, a dentist or contractor shall not—

- (a) claim a fee or accept payment of any fee from the Agency for any treatment provided otherwise than under general dental services;
- (b) claim a fee or accept payment of any fee from the patient for any treatment provided under general dental services, for which a claim has been or will be submitted to the SDPB, except such fee as may be prescribed by the National Health Service (Dental Charges) (Scotland) Regulations 2003;
- (c) claim a fee or accept payment of any fee from the Agency for any treatment provided under general dental services for which a fee has already been claimed under general dental services;
- (d) claim a fee or accept payment of any fee for any treatment which has not been provided, (except such a fee as may be prescribed by regulation 6(3)(a) of the National Health Service (Dental Charges) (Scotland) Regulations 2003;
- (e) claim, solicit or accept payment of any fee or other consideration or offer or promise any inducement as a prerequisite to providing, or agreeing to provide, or assisting or agreeing to assist with the provision of, general dental services, except such fee or other

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<sup>(51)</sup> S.S.I. 2003/158, as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

consideration as may be prescribed in the Statement of Dental Remuneration, the National Health Service (Dental Charges) (Scotland) Regulations 2003 or the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989<sup>(52)</sup>;

- (f) claim a fee or accept payment of any fee from the Agency for any treatment provided to any person under a pilot scheme for personal dental services; or
  - (g) make the provision of general dental services to any person subject to any condition other than those specified in these Regulations, permitted in the National Health Service (Dental Charges) (Scotland) Regulations 2003 or otherwise required by law.
- (2) Any claim for a fee or other remuneration for the provision of general dental services shall be submitted in accordance with either paragraph (a) or (b):
- (a) the claim shall be submitted by post or by hand and shall be signed—
    - (i) if the care and treatment was provided on behalf of a contractor by a dentist who is also a contractor, by that dentist, who shall also give the name of the contractor on whose behalf the care and treatment was provided;
    - (ii) if the care and treatment was provided on the contractor's behalf by a dentist whose name is included in the second part of the dental list, by that dentist, who shall also give the name of the contractor on whose behalf the care and treatment was provided; and
    - (iii) in other cases where the care and treatment was provided by a contractor who is a dentist, by the contractor; or
  - (b) the claim shall be submitted by electronic communication (through a computer or similar device) and—
    - (i) if the care and treatment was provided on behalf of a contractor by a dentist who is also a contractor, the claim must contain the PIN allocated to that dentist;
    - (ii) if the care and treatment was provided on the contractor's behalf by a dentist whose name is included in the second part of the dental list, the claim must contain the PIN allocated to that dentist; and
    - (iii) where the care and treatment was provided by a contractor who is a dentist, the claim must contain the PIN allocated to that contractor.
- (3) When submitting a claim by way of electronic communication under sub-paragraph (2)(b) a person shall make use only of such computer programme as the SDPB has approved as suitable for that purpose.

(4) In this paragraph a "PIN" shall mean the personal identification number allocated to the contractor (or in the case of an assistant, the identification number allocated to the contractor for the assistants use) by the SPDB.

## Surveys

**21.** A Health Board may conduct or commission surveys or other research relating to the provision of general dental services at no less than six monthly intervals and, when requested to do so by the Health Board, a contractor shall within a timescale specified by the Health Board, provide the Health Board with information of the provision of general dental services for the purpose of such surveys or other research.

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<sup>(52)</sup> S.I. 1989/364 as amended by S.I. 1992/411, 1994/1770 and 1998/251 and S.S.I. 2004/369, 2005/572, 2005/445, 2006/141 and 2008/290, and 2009/177.

### **Standards of care**

**22.**—(1) In providing, or assisting with the provision of, care and treatment under general dental services a dentist shall—

- (a) employ a proper degree of skill and attention;
- (b) save as is provided in paragraphs 12, 13, 19, 23, 33 and 44, give all treatment personally;
- (c) use only materials which are suitable for the purpose for which they are used;
- (d) except in the case of occasional treatment and treatment on referral, provide or assist with the provision of care and treatment to such extent and at such intervals as may be necessary to secure and maintain the oral health of the patient; and
- (e) not provide or assist with the provision of care and treatment in excess of that which is reasonably necessary to secure and maintain the oral health of the patient.

(2) A body corporate, in undertaking to provide general dental services, shall ensure that any dentist employed or engaged by it to treat patients shall—

- (a) employ a proper degree of skill and attention;
- (b) save as is provided in paragraphs 12, 13, 19, 23, 33 and 44, give all treatment personally;
- (c) use only materials which are suitable for the purpose for which they are used;
- (d) except in the case of occasional treatment and treatment on referral, provide or assist with the provision of care and treatment to such extent and at such intervals as may be necessary to secure and maintain the oral health of the patient;
- (e) not provide or assist with the provision of care and treatment in excess of that which is reasonably necessary to secure and maintain the oral health of the patient; and
- (f) comply with the provisions of the terms of service.

### **Sedation**

**23.**—(1) Where a dentist undertakes, in the course of providing or assisting with the provision of general dental services, any procedure for which sedation of the patient is necessary the dentist shall remain with the patient and arrange for another person with suitable training and experience also to remain with the patient throughout the procedure.

(2) In this paragraph “a person with suitable training and experience” means a person who has received such training and experience as to be capable of assisting the dentist in monitoring the clinical condition of the patient and in the event of an emergency.

### **Supply of drugs**

**24.**—(1) A dentist may supply to a patient such listed drugs as are required for immediate use before a supply can otherwise be obtained under paragraph 25.

(2) A dentist may personally administer to a patient any drug required for the care and treatment of that patient.

### **Issue of prescription forms**

**25.**—(1) A dentist shall order such listed drugs (other than those supplied under paragraph 24) as are needed for the care and treatment of any patient for whom the dentist is providing or assisting with the provision of general dental services by issuing to the patient a prescription form.

(2) The prescription form—

- (a) shall be signed by the dentist;

- (b) shall not refer to any previous prescription;
  - (c) shall not be issued to persons other than patients,
- and a separate prescription form shall be issued for each patient.

### **Domiciliary visits**

26.—(1) A contractor may, where requested to do so by or on behalf of a patient who is unable to leave home unaccompanied because of physical or mental illness or disability, agree to provide general dental services at a place at which the patient normally resides.

(2) A contractor shall, where requested to do so by or on behalf of a patient who is unable to leave home unaccompanied because of physical or mental illness or disability, provide general dental services at a place at which the patient normally resides provided that such a place is not more than five miles from the contractor's practice premises, or in the case of a contractor who provides general dental services at a mobile surgery only from any of the places regularly visited by the contractor.

### **Records**

27.—(1) A contractor shall keep a complete, accurate and up to date record in respect of—

- (a) the care and treatment given to each patient under a continuing care arrangement or a capitation arrangement and the fact of referral under such an arrangement under paragraph 12 or 13;
- (b) treatment on referral;
- (c) occasional treatment;

in the patient record and shall include with that record details of any private care and treatment (to the extent that it is provided with care and treatment under general dental services for the purpose of securing and maintaining oral health), any practice record form and all radiographs, photographs and study models (being models in respect of treatment) taken or obtained by or on behalf of the contractor as part of the care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral or occasional treatment.

(2) The records, forms, radiographs, photographs and study models referred to in sub-paragraph (1) shall be retained for a period of 2 years by the contractor after completion of any course of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral or occasional treatment to which they relate.

(3) The contractor shall, during the period in which it holds any records, forms, radiographs, photographs and study models referred to in sub-paragraph (1)—

- (i) produce them on request to the dental officer, or any authorised officer of the Agency or the Health Board; or
- (ii) send them to the SDPB, the dental officer, or any authorised officer of the Agency, or the Health Board within 14 days of being required to do so by one of those persons.

(4) A contractor may keep the records (other than the practice record form) referred to in sub-paragraph (1) and the form recording recalled attendance in accordance with paragraph 31 in computerised form.

(5) Nothing in sub-paragraph (1) shall be taken as removing any rights of property which the contractor may have in relation to the records, radiographs, photographs and study models referred to in that sub-paragraph.

### **Prior approval of care and treatment**

**28.**—(1) Subject to sub-paragraphs (6), (7) and (10), where care and treatment requires prior approval, from the SDPB, the dentist—

- (a) shall submit, without unreasonable delay, to the SDPB for approval an estimate of the whole of the care and treatment, including details of any part of that care and treatment to be provided privately; and
- (b) other than in an emergency, shall not, until the dentist receives approval from the SDPB, proceed—
  - (i) where prior approval is required by virtue of Part I of Schedule 4, with any item of treatment referred to in that Part; or
  - (ii) where prior approval is required by virtue of Part II of Schedule 4, with any care and treatment mentioned in the estimate.

(2) Subject to sub-paragraphs (6), (7) and (10), where in the course of providing any care and treatment to which, at its outset, sub-paragraph (1) does not apply, a dentist is of the opinion that a variation of or an addition to such care and treatment is necessary, and by reason of the variation or addition the care and treatment includes or becomes treatment requiring prior approval, the contractor—

- (a) shall submit, without unreasonable delay, to the SDPB for approval an estimate of the whole of the care and treatment (including that which the dentist has commenced) together with details of any part of that care and treatment provided or to be provided privately; and
- (b) other than in an emergency, shall not, until the dentist receives approval from the SDPB, proceed—
  - (i) where prior approval is required by virtue of Part I of Schedule 4, with any item of treatment referred to in that Part; or
  - (ii) where prior approval is required by virtue of Part II of Schedule 4, with any care and treatment mentioned in the estimate.

(3) Subject to sub-paragraphs (6), (7) and (10) where a dentist has obtained the approval from the SDPB required by sub-paragraph (1) because the care and treatment is or includes an item of treatment referred to in Part I of Schedule 4, and in the opinion of the dentist carrying out the treatment a variation of or addition to such care and treatment is necessary, which variation or addition—

- (a) is or includes an item of treatment referred to in Part I of Schedule 4; or
- (b) has the effect that the care and treatment then falls within Part II of Schedule 4,

the dentist shall re-submit, without unreasonable delay, the estimate to the SDPB for approval, including details of any part of that care and treatment provided or to be provided privately.

(4) Subject to sub-paragraphs (6), (7) and (10), where a dentist has obtained approval from the SDPB in accordance with sub-paragraph (1) because prior approval is required by virtue of Part II of Schedule 4, and in the opinion of the dentist carrying out the treatment a variation of or addition to such care and treatment is necessary, the dentist shall re-submit, without unreasonable delay, the estimate to the SDPB for approval together with details of any part of that care and treatment provided or to be provided privately.

(5) Where the SDPB receives an estimate under sub-paragraph (3) or (4) it may withdraw or vary its original approval insofar as the care and treatment has not yet been carried out in accordance with such approval, or add to its original approval, and, other than in an emergency, the dentist shall not, until he receives approval from the SDPB, proceed—

- (a) in any case falling within sub-paragraph (3)(a), with any item of treatment referred to in Part I of Schedule 4; or



(b) in any other case, with any of the care and treatment mentioned in the estimate.

(6) Sub-paragraphs (1), (2), (3) and (4) shall not apply where the care and treatment to be provided under a capitation arrangement is care and treatment for which a contractor is remunerated in accordance with Section X (treatment under capitation) of Determination I of the Statement of Dental Remuneration and for which the contractor receives no remuneration other than a capitation payment.

(7) A dentist may proceed immediately with the care and treatment of merchant seamen, deep sea fishermen, or oil rig workers, about to go to sea for a period in excess of four weeks, or persons about to go aboard for a period in excess of four weeks, and in such event shall send an estimate to the SDPB for approval within 7 days of the commencement of the care and treatment.

(8) Where, in consequence of any proceeding under the National Health Service (Discipline Committees) (Scotland) Regulations 2006<sup>(53)</sup> in respect of general dental services provided in the area of any Health Board, a dentist is required for any period to submit all estimates to the SDPB for approval, in respect of all treatment or any specified description of treatment, the contractor or dentist—

(a) shall submit, without unreasonable delay, all such estimates (whether relating to treatment to be provided in that or any other area), to the SDPB for approval; and

(b) shall not proceed with such treatment until the dentist receives approval from the SDPB, except that the dentist may in the course of any single consultation proceed with treatment consisting of one examination and the taking of no more than two small radiographs, each of a size not exceeding 16 square centimetres, or treatment in an emergency.

(9) Where in consequence of a direction given by the SDPB under regulation 27(2) a dentist is directed, for any period, to submit all estimates to the SDPB for approval in respect of treatment or a description of treatment specified in the direction the dentist—

(a) shall submit, without unreasonable delay, all such estimates (relating to treatment in the area of any Health Board) to the SDPB for approval; and

(b) shall not proceed with such treatment until the dentist receives approval from the SDPB, except that the dentist may in the course of any single consultation proceed with treatment consisting of one examination and the taking of no more than two small radiographs, each of a size not exceeding 16 square centimetres, or treatment following trauma or in an emergency.

(10) Nothing in this paragraph shall prevent a dentist or contractor carrying out any care and treatment privately.

### **Completion of estimate**

**29.**—(1) Subject to sub-paragraphs (2) and (3), when submitting an estimate to the SDPB for approval in accordance with paragraphs 28(1), (2), (3), (4), (8) or (9), a dentist shall in all cases, in addition to the information specified in those sub paragraphs, provide to the SDPB the following information—

(a) the dentist's name and address and the number by which the dentist's arrangement with the Health Board is identified;

(b) the patient's name and address and date of birth; and

(c) details of the care and treatment proposed and the reasons why the dentist considers such care and treatment is necessary.

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(53) S.S.I. 2006/330, amended by S.S.I. 2009/183 and 308.

(2) A dentist when submitting an estimate to the SDPB for approval as mentioned in sub paragraph (1) may, by arrangement with the SDPB, use a computer to submit that estimate to the SDPB.

(3) A dentist who, in accordance with sub paragraph (2), uses a computer to submit an estimate to the SDPB shall—

- (a) at the appropriate time secure the completion, so far as applicable, by the patient or by any person acting on behalf of the patient, of the practice record form;
- (b) use only such computer programme as the SDPB has approved as suitable for the purpose; and
- (c) include with that estimate—
  - (i) all the information specified in sub paragraph (1)(a) to (c) except the dentist's name and address; and
  - (ii) the personal identification number allocated to the dentist by the SDPB for that purpose.

### **Completion of claim forms**

**30.**—(1) Subject to sub-paragraph (2), where a person declares that that person or a person for whom that person is responsible does not have to pay the charges prescribed by the National Health Service (Dental Charges) (Scotland) Regulations 2003(**54**) by virtue of either—

- (a) entitlement to exemption under paragraph 2(4) or 3(4) of Schedule 11 to the Act; or
- (b) entitlement to remission of such charges under regulation 3 or 5 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(**55**),

the contractor shall ask that person to produce satisfactory evidence in support of that declaration and where that person does not produce such evidence the contractor shall record that fact in the form claiming remuneration for the treatment of that person or the person for whom that person is responsible.

(2) Where, at the time of the declaration there is already available to the contractor satisfactory evidence of an entitlement to exemption from the charges on the grounds that the person in respect of whom the declaration is made is under 18 years of age, the obligations on the contractor specified in sub-paragraph (1) shall not apply.

(3) The contractor may appoint a member of the contractor's staff to undertake the task set out in sub-paragraph (1) on the contractor's behalf, and where the contractor does so the contractor shall ensure that that staff member is given sufficient instruction to perform that task.

### **Recalled attendance**

**31.** Where a dentist is recalled to the practice premises at a time when the dentist does not normally provide or assist in the provision of general dental services, in order to provide treatment in an emergency, the dentist shall, on each occasion the dentist does so, at the time of that recalled attendance—

- (a) complete a form supplied by the Health Board for the purpose of supporting the dentist's claim to an allowance for that recalled attendance; and
- (b) obtain the signature on that form of the patient who the dentist has been recalled to treat, or of a person acting on behalf of that patient.

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(54) S.S.I. 2003/158, as amended by 2004/101, 2005/121 and 2006/131.

(55) S.S.I. 2003/460, as amended by 2004/102.

### **Completion of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral**

**32.**—(1) Subject to sub-paragraphs (2) and (4), the contractor shall complete within a reasonable time any course of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral.

(2) Where the patient requires dentures, or new dentures, in consequence of treatment provided by the contractor involving the extraction of one or more teeth, the contractor shall provide such dentures within 12 months of the date of the relevant extraction or, as the case may be, the later or last such extraction.

(3) Insofar as any treatment relates to the provision of dentures, it shall not be regarded as completed unless the dentures have been delivered to, and remain in the possession of, the patient.

(4) A contractor shall not be regarded as having failed to comply with sub#paragraphs (1) or (2) by reason of any delay in completing treatment where the Board is satisfied that the delay is due to the failure of the patient to attend for treatment or that there is some other sufficient reason for the delay.

(5) Where a contractor, or a dentist assisting in the provision of general dental services—

(a) has been notified that a patient has been requested to submit for examination by a dental officer; and

(b) has not been notified that the examination has been carried out or cancelled,

the contractor or dentist (as the case may be) shall not, otherwise than in an emergency, provide or assist with the provision of any care and treatment to that patient and shall take all reasonable steps to facilitate the examination.

(6) Where a contractor, or a dentist assisting in the provision of general dental services—

(a) has been notified that a dental discipline committee will investigate a reference relating to the provision of general dental services by the dentist or contractor (as the case may be) to a patient; and

(b) has not been notified—

(i) that the investigation has been completed; or

(ii) that such committee has no objection,

the contractor or dentist (as the case may be) shall not, other than in an emergency, provide or assist with the provision of any care and treatment to that patient and shall take all reasonable steps to facilitate the investigation.

(7) Nothing in this paragraph shall prevent a dentist or contractor carrying out any care and treatment privately.

### **Dental care professionals**

**33.** A dentist may in the provision of general dental services arrange for care and treatment to be given by dental care professionals in accordance with the provisions of the Dentists Act 1984, and any regulations made under it and shall ensure that such care and treatment is properly completed.

### **Postgraduate education**

**34.** A dentist shall in the provision or assistance with the provision of general dental services take reasonable steps to develop professional knowledge and skills through activities undertaken with a view to maintaining an up-to-date knowledge of dental science and practice.

## Notices

**35.** A contractor shall display in a prominent position at the practice premises such information as the Health Board or the Agency may issue.

## Complaints

**36.—**(1) Subject to sub-paragraph (2), a contractor shall establish and operate, in accordance with this paragraph, a procedure (in this paragraph and in paragraph 37 referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of the contractor’s patients and former patients.

(2) The practice based complaints procedure to be established by a contractor may be such that it also deals with complaints made in relation to one or more dentists or other persons employed or engaged by the contractor.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the provision or assistance with the provision of general dental services and within the responsibility or control of—

- (a) the contractor;
- (b) where the contractor is a body corporate, any of its directors or former directors;
- (c) any dentist either employed or engaged by the contractor;
- (d) a former partner of the contractor;
- (e) an employee of the dentist other than one falling within paragraph (c);

and in this paragraph and paragraph 37, references to complaints are to complaints falling within this sub-paragraph.

(4) A complaint may be made on behalf of a patient or former patient with the patient’s consent, or—

- (a) where the patient is a child under 16—
  - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child; or
  - (ii) in the care of an authority under Part II of the Social Work (Scotland) Act 1968<sup>(56)</sup> or in the care of a voluntary organisation, by that authority or organisation; or
- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in that patient’s welfare.

(5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in the patient’s welfare or, where the patient was as described in sub#paragraph (4) (a)(ii), by the authority or voluntary organisation.

(6) A practice based complaints procedure shall comply with the following requirements:—

- (a) the contractor shall specify a person (who need not be connected with the contractor’s practice and who, in the case of an individual, may be specified by job title) to be responsible for receiving and investigating all complaints;
- (b) all complaints shall be—

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<sup>(56)</sup> 1968 c.49; Part II of the Social Work (Scotland) Act 1968 was extended with modification by the Guardianship Act 1973 (c.29) and was amended by the Health Services and Public Health Act 1968 (c.46), the National Health Service (Scotland) Act 1972 (c.58), the Health and Social Service and Social Security Adjudications Act 1983 (c.41), the Foster Children (Scotland) Act 1984 (c.56), the National Health Services and Community Care Act 1990 (c.19), the Children (Scotland) Act 1995 (c.36), the Community Care (Direct Payments) Act 1996 (c.30), the Immigration and Asylum Act 1999 (c.33), the Community Care and Health (Scotland) Act 2002, (asp 5), the Criminal Justice (Scotland) Act 2003, (asp 7), the Management of Offenders etc. (Scotland) Act 2005, (asp 14), and the Adult Support and Protection (Scotland) Act 2007, (asp 10).

- (i) recorded in writing;
  - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in paragraph (a), or where that is not possible, as soon as reasonably practicable; and
  - (iii) properly investigated;
- (c) within the period of 20 days (excluding Saturdays, Sundays, Christmas Day, New Year's Day and other public or local holidays agreed with the Health Board) beginning with the day on which the complaint was received by the person specified in paragraph (a), or where that is not possible, as soon as reasonably practicable, the complainant shall be given a written summary of the investigation and its conclusions;
- (d) where the investigation of the complaint requires consideration of the patient's dental records, the person specified in paragraph (a) shall inform the patient or person acting on the patient's behalf if the investigation will involve disclosure of information contained in those records to a person other than the contractor or a partner, deputy or an employee of the contractor and obtain the consent of the patient or the person acting on the patient's behalf to such disclosure; and
- (e) the contractor shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records shall be kept separate from patients' dental records.
- (7) A contractor shall inform the contractor's patients about the practice based complaints procedure which it operates and give the name (or title) and address of the person specified in sub-paragraph (6)(a).

### **Co-operation and investigation**

**37.**—(1) A contractor or any dentist who assists the contractor in the provision of general dental services shall cooperate with any investigation of a complaint by the Health Board in accordance with the procedures which it operates in accordance with directions given under section 2(5) of the Act(57), whether the investigation follows one under the practice based complaints procedure or not.

- (2) The cooperation required by sub-paragraph (1) includes—
- (a) answering questions reasonably put to the contractor or dentist by the Health Board;
  - (b) providing any information relating to the complaint reasonably required by the Health Board; and
  - (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the presence of a contractor or any dentist who assists the contractor in the provision of general dental services at the meeting is reasonably required by the Health Board.

### **Returns re complaints**

**38.**—(1) A contractor whose name is included in the dental list shall provide to the Health Board by 30th June each year a return stating the number of complaints received in accordance with paragraph 36 in respect of the period of 12 months ending on 31st March of that year.

(2) In the case of a dentist who practises in partnership with one or more other dentists whose names are included in the dental list, the information referred to in sub#paragraph (1) shall be provided in respect of the partnership as a whole instead of by dentists in the partnership individually.

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(57) Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19), Schedule 9, paragraph 19(1).

### **Professional indemnity**

**39.** A contractor shall, if asked in writing to do so by the Health Board on whose dental list the contractor's name is included—

- (a) state whether the contractor is indemnified against claims relating to the business of dentistry carried out by the contractor, and relating to the practise of dentistry by any dentist, assistant, deputy and other dental care professional whose work the contractor directs or who is employed or engaged by the contractor;
- (b) if the contractor is so indemnified, provide documentary evidence to that effect.

### **Clinical audit activities**

**40.**—(1) Subject to the remainder of this paragraph, in the relevant period a dentist on the dental list shall—

- (a) undertake at least 15 hours of clinical audit activities; and,
- (b) where that dentist is of a type described in subparagraph (7), undertake at least 5 hours of clinical audit activities within the first year of the relevant period.

(2) A contractor must take reasonable steps to ensure that any dentist employed or engaged by the contractor in the provision of general dental services shall—

- (a) undertake at least 15 hours of clinical audit activities during the relevant period; and,
- (b) where that dentist is of a type described in paragraph (7) undertake at least 5 hours of clinical audit activities within the first year of that relevant period.

(3) A dentist shall produce such evidence which demonstrates compliance with that dentist's duties under subparagraph (1) as the Health Board or NHS Education for Scotland (as the case may be) requires.

(4) In this paragraph—

“clinical audit activities” means activities (approved by NHS Education for Scotland or the Health Board) which:

- (a) involve the systematic and critical analysis of the quality of dental care provided by the dentist, (including the processes used by that dentist for diagnosis, intervention and treatment and use of resources) and;
- (b) have a defined start and end date, no more than 6 months apart;

“the relevant period” means the three year period from 1st August 2010 until 31st July 2013 (inclusive) and each successive period of three years thereafter.

(5) Notwithstanding subparagraph (1) where a dentist joins a dental list after the first day of a relevant period, that dentist shall, from 1st August of the calendar year immediately after that dentist joins, undertake such number of hours of clinical audit activities as are proportionate (which may be zero) to the proportion of the relevant period that remains from that 1st August to the end of that relevant period.

(6) In the operation of subparagraph (5) where that dentist is of a type described in subparagraph (7), that dentist shall, when undertaking such number of hours of clinical audit activities as are proportionate to the remainder of the relevant period, ensure that at least 5 hours of clinical audit activity are undertaken within a year from 1st August of the calendar year immediately after that dentist joins.

(7) The type of dentist described is a dentist who has never been included in sub-part A of a dental list kept under these regulations, or any earlier form of such a list kept under any earlier similar enactment.

## PART V

### ADDITIONAL TERMS OF SERVICE FOR DENTISTS OTHER THAN SALARIED DENTISTS

#### **Patient information leaflets**

**41.**—(1) Subject to sub-paragraph (4) a contractor shall compile and make available, to the Health Board (if it requires one) and to any person who may reasonably require one, a document providing information about the provision of general dental services at the contractor’s practice premises (in this paragraph called “a patient information leaflet”) which shall include the information specified in Schedule 5.

(2) A contractor shall make any amendments to the contractor’s patient information leaflet which the contractor considers to be necessary to maintain its accuracy.

(3) A dentist who practises in partnership or under an associateship agreement with other dentists whose names are included in the first part of the dental list shall satisfy the requirements of this paragraph if the dentist makes available a patient information leaflet, compiled and, where appropriate, revised in accordance with sub-paragraphs (1) and (2), which relates to the partnership or associateship as a whole.

(4) The requirements of sub-paragraph (1) shall not apply to any contractor to the extent that the contractor provides general dental services only to persons detained in a prison or young offenders institution.

#### **Premises and Equipment**

**42.**—(1) Unless the contractor provides general dental services from a mobile surgery only, a contractor shall provide proper, sufficient and safe premises, equipment, instruments and procedures.

(2) A contractor who provides general dental services at a mobile surgery shall provide proper, sufficient and safe mobile surgery equipment, instruments and procedures.

(3) A dental surgery and a mobile surgery shall be furnished with suitable equipment and a contractor shall provide treatment with suitable instruments.

(4) A contractor shall at all reasonable times, on receipt of reasonable notice in writing, admit a dental officer or a person authorised by the Health Board for the purpose of inspecting any equipment or practice premises, dental surgery, mobile surgery or waiting-room under the contractor’s control and reviewing the procedures and staff training.

#### **Remuneration**

**43.** The provisions of paragraph 20 shall not have effect in relation to any claim made by a contractor in respect of loss of remuneration resulting from the failure of a patient to keep an appointment for general dental services.

#### **Deputies and assistants**

**44.**—(1) Subject to the provisions of this paragraph, a dentist may arrange for care and treatment to be provided by a deputy or assistant.

(2) In the case of two or more dentists practising in partnership or as a principal and assistant, care and treatment may at any time be given by a partner or an assistant of the dentist who is responsible for the patient’s treatment, if reasonable steps are taken to secure continuity of care and treatment.

(3) A contractor shall—

- (a) prior to employing any assistant, see evidence that that assistant is included on the second part of the dental list of the appropriate Health Board;
  - (b) notify the Health Board of the employment of an assistant within 7 days of the first day of such employment;
  - (c) forward to the Health Board such particulars concerning the assistant as the Health Board may reasonably require;
  - (d) on ceasing to employ an assistant, notify the Health Board within 7 days of the cessation of that employment.
- (4) A contractor who is a dentist shall not employ as an assistant any dentist whose name is included in sub-part A of the dental list and who has the same address as any of the contractor's own practice premises.
- (5) Where a contractor employs as an assistant a dentist who to the contractor's knowledge is subject to a requirement mentioned in paragraph 28(8) or (9) to submit estimates to the SDPB for prior approval in respect of treatment, the contractor shall not allow the dentist to carry out the treatment unless the prior approval of the SDPB has first been obtained.
- (6) If a contractor who is a dentist intends to be absent from the practice premises for more than 28 consecutive days the contractor shall notify the Health Board of—
- (a) the intended absence; and
  - (b) the name and address, if different to the practice premises, of the deputy or assistant (if any) responsible for providing or assisting with the provision of general dental services during the contractor's absence.
- (7) A contractor who is a dentist who intends to be or is absent from his practice premises for more than two months—
- (a) shall notify the Health Board in writing; and
  - (b) shall not employ an assistant for any period of absence in excess of two months without the consent of the Health Board.
- (8) Where a dentist whose name is included on the dental list and is employed, engaged or under any other contractual or legal arrangement or relationship with a body corporate, intends to be, or is, absent from the contractor's practice premises for more than two months, the body corporate shall—
- (a) notify the Health Board in writing;
  - (b) not employ a dentist whose name appears on the second part of the dental list for any period of absence in excess of two months without the consent of the Health Board.
- (9) A contractor shall not employ as a deputy or assistant for the purpose of the provision or assistance with this provision of general dental services any dentist who is disqualified, refused entry to a dental list or removed from any dental list or equivalent list, for as long as that remains the case.
- (10) A contractor shall not employ as a deputy or assistant for the purpose of the provision or assistance with the provision of general dental services any dentist who is suspended by direction of the Tribunal, a Health Board or equivalent body, for as long as that remains the case.
- (11) A deputy may provide general dental services at places or at times other than those arranged by the contractor for whom he is acting, due regard being had to the convenience of patients.
- (12) A deputy or assistant who issues a prescription form for listed drugs under paragraph 25 shall, in addition to signing his or her own name on such prescription form, insert on the form the name of the contractor for whom he or she is acting.
- (13) Where any care and treatment is given to a patient by an assistant, the assistant shall complete a claim for remuneration in respect of that care and treatment which—



- (a) is separate from any claim form in respect of care and treatment given personally by a contractor who is a dentist; and
- (b) identifies the assistant by whom the care and treatment was given and his status as an assistant.

## PART VI

### ADDITIONAL TERMS OF SERVICE FOR SALARIED DENTISTS

#### **Attendance**

**45.**—(1) A salaried dentist shall attend at such premises on such days and at such hours as may be agreed with the Health Board.

(2) Except where paragraph 17 applies a salaried dentist shall not, without the permission of the Health Board, provide at such premises any care and treatment which is not part of general dental services.

#### **Records**

**46.**—(1) The records, radiographs, photographs and study models referred to in paragraph 27(1) shall be the property of the Health Board.

(2) The salaried dentist shall supply to the SDPB or the dental officer such information with regard to the care and treatment of patients as they may request within 7 days of the date of the request.

#### **Drugs**

**47.** Any drugs supplied under paragraph 24 shall be obtained by the salaried dentist in such manner as the Health Board may require.

#### **Provision of Health Board patient information leaflets**

**48.** A salaried dentist shall make available to any person who may reasonably require one the Health Board patient information leaflet compiled and provided to that dentist by the Health Board pursuant to regulation 21.

#### **Termination of services**

**49.**—(1) Subject to sub-paragraph (2), any arrangement between the Health Board and a salaried dentist for the provision of general dental services may be terminated by either party giving to the other not less than three months' notice in writing.

(2) If a salaried dentist fails to comply with any of the terms of service that apply to a salaried dentist the Health Board may terminate the agreement by giving him not less than one month's notice in writing.

(3) The Health Board may at any time suspend a salaried dentist from the discharge of his or her duties but such suspension shall not affect the right of the salaried dentist to receive remuneration during the period of suspension.

## SCHEDULE 2

Regulation 5

### PART IA

#### INFORMATION, DECLARATIONS, CERTIFICATE, APPLICATIONS, UNDERTAKINGS AND CONSENTS, TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN SUB-PART A OF THE FIRST PART OF THE DENTAL LIST

1. An application shall contain the following information:—
  - (a) (i) in the case of a dentist, the applicant's full name, sex, date of birth, private address, telephone number and e-mail address and National Insurance number, if the applicant has one;  
(ii) in the case of a body corporate, the body corporate's name, registered office and registered number, telephone number, e-mail address and a list of the full names, dates of birth, private addresses and (if they have one) the national insurance numbers, of all the directors and the secretary;
  - (b) in the case of a dentist the date of first registration and any subsequent registration as a dental practitioner in the register of dentists and registration number, dental qualifications registerable under the Dentists Act 1984<sup>(58)</sup> and when obtained;
  - (c) whether the applicant is a registered dental practitioner or a body corporate;
  - (d) the applicant's vocational training number if the applicant has one;
  - (e) address of proposed practice premises and, in the case of any mobile surgery, the address to which correspondence may be sent;
  - (f) whether there is access to the proposed dental surgery without use of stairs;
  - (g) whether the proposed dental surgery has wheelchair access;
  - (h) proposed days and hours of attendance and whether patients will be seen by appointment only and, in the case of any mobile surgery, particulars of places to be regularly visited and the times of those visits;
  - (i) whether the applicant is intending to practise—
    - (i) as a single-handed practitioner;
    - (ii) as a partner, and if so the name and address of each intended partner and whether or not such partner's name is included in the first part of the Health Board's dental list;
    - (iii) as an associate, and if so the name and address of each intended associate and whether or not the associate's name is included in the first part of the Health Board's dental list;
    - (iv) as a body corporate;
    - (v) as an employee of, or under any other contractual or legal arrangement or relationship with, a body corporate and if so, full details of the name, telephone number, and e-mail address, of the body corporate and its registered office and registered number, and the names of all the directors and secretary or members as the case may be;
  - (j) the names of any assistants the applicant or any person referred to in paragraphs (i)(ii), (iii) or (iv) of sub-paragraph (i) intends to employ or already employs at the proposed practice premises;

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(58) 1984 c.24.

- (k) (except where the applicant is a body corporate) chronological details of the applicant's professional experience (including the starting and finishing dates of each appointment together with an explanation of any gaps between appointments) with any additional supporting particulars, and an explanation of why the applicant was dismissed from any post;
- (l) whether the general dental services to be provided are restricted to orthodontic treatment;
- (m) details of any list or equivalent list from which the applicant has ever been disqualified, conditionally disqualified, removed, suspended, contingently removed or suspended or to which admission was refused or conditionally granted together with reasons for such disqualification, conditional disqualification, removal, suspension, refusal, or conditional admission;
- (n) (except where the applicant is a body corporate) name and addresses of two referees who are willing to provide clinical references relating to two recent posts as a dentist each of which lasted at least 3 months without a significant break and which may include a current post, or, where this is not possible a full explanation, and name and address of an alternative referee or referees;
- (o) (except where the applicant is a body corporate) if the applicant is a national of an EEA state, evidence that the applicant 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 general dental services;
- (p) if the applicant is the director of a corporate body, the name and registered office of that body;
- (q) (except where the applicant is a body corporate) whether any limitations have been imposed by any government organisation which restrict the applicant's ability to work in any specified capacity in Scotland and, if so, the details of these;
- (r) whether the applicant is indemnified against claims relating to the practise of dentistry in relation to dentistry performed by that dentist, and by any assistant, deputy and dental care professional whose work the dentist intends to direct or, in the case of a body corporate, any dentistry performed by an employee of, or a person under any other contractual or legal arrangement or relationship with, that body corporate and if the applicant is so indemnified, documentary evidence to that effect;
- (s) if the applicant is, or has been where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud;
- (t) whether the applicant has—
  - (i) had sequestration of the applicant's estate awarded, or been adjudged bankrupt;
  - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986<sup>(59)</sup>;
  - (iii) made a composition or arrangement with, or granted a trust deed for, the applicant's creditors;
- (u) where the applicant is a body corporate, whether—
  - (i) an administrator, administrative receiver or receiver has been appointed in respect of it;
  - (ii) an administration order has been made in respect of it under Schedule B1 to the Insolvency Act 1986; or
  - (iii) it has been wound up under Part IV of the Insolvency Act 1986; or

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(59) 1986 c.45 Schedule 4A was subject to transitional provisions specified in S.I. 2003/2093, Article 7.

- (v) whether the applicant is subject to a disqualification order under the Company Directors Disqualification Act 1986(60), the Companies (Northern Ireland) Order 1986(61) or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
2. An application shall contain the following declarations as to whether or not the applicant, and where the applicant is a body corporate any director of the applicant—
- (a) has been convicted of a criminal offence in the British Islands or has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
  - (b) is currently the subject of any proceedings anywhere in the world which might lead to a conviction specified in sub-paragraph (a);
  - (c) has in summary proceedings in respect of an offence, been the subject of an order discharging the applicant absolutely (without proceeding to conviction);
  - (d) has accepted and agreed to pay a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995(62) or a penalty under section 115A of the Social Security Administration Act 1992(63);
  - (e) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995(64);
  - (f) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995(65);
  - (g) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995(66);
  - (h) has accepted a police caution in the British Islands;
  - (i) has been bound over following a criminal conviction in the British Islands;
  - (j) has been subject to any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world where the outcome was adverse;
  - (k) is currently subject to any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world;
  - (l) is the subject of any investigation, proceedings or referral by another Health Board or equivalent body or the Tribunal which might result in the applicant, or where the applicant is a body corporate, any director of the applicant being disqualified, conditionally disqualified, refused entry, granted entry subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
  - (m) is, or has been, where the outcome was adverse, the subject of any investigation into the applicant's or such director's professional conduct in respect of any previous or current employment;

(60) 1986 c.46 as amended by the Friendly Societies Act 1992 (c.40), the Companies Act 1989 (c.40), the Youth Justice and Criminal Evidence Act 1999 (c.23), the Insolvency Act 2000 (c.39), the Enterprise Act 2002 (c.40) by Water Act 2003 (c.37), the Courts Act 2003 (c.39), the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27), the National Health Service (Consequential Provisions) Act 2006 (c.43), S.I. 1990/355, S.I. 1990/2569, S.I. 2001/766, S.I. 2001/1228, S.I. 2003/2093 and S.I. 2003/2096.

(61) S.I. 1986/1032 (N.I.6), as relevantly amended by S.I. 1989/2404 (N.I.18), S.I. 2002/3150 (N.I.4), as amended.

(62) 1995 c.46.

(63) 1992 c.5; section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c.47) and was amended by section 14 of the Social Security Fraud Act 2001 (c.11).

(64) 1995 c.46; section 302A was inserted by the Criminal Proceedings etc (Reform) (Scotland) Act 2007 ("the 2007 Act"), section 50(2).

(65) 1995 c.46; section 302B was inserted by the 2007 Act, section 50(2).

(66) 1995 c.46; section 303ZA was inserted by the 2007 Act, section 51.

- (n) is, or has in the preceding 6 months been, or was at the time of the events that gave rise to conviction, proceedings, investigation or referral, a director of a body corporate, or a member of a partnership (including a limited liability partnership) which—
    - (i) has been convicted of a criminal offence in the British Islands;
    - (ii) has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
    - (iii) is currently the subject of any proceeding anywhere in the world which might lead to such a conviction;
    - (iv) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world; or
    - (v) is, to the applicant's knowledge, or has been, where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud;
  - (o) has had sequestration of the applicant's or such director's estate awarded or been adjudged bankrupt;
  - (p) has been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986;
  - (q) has made a composition or arrangement with, or granted a trust deed for, the applicant's or such director's creditors;
  - (r) if a body corporate—
    - (i) has had an administrator, administrative receiver or receiver appointed in respect of it;
    - (ii) has had an administrative order made in respect of it under Schedule B1 to the Insolvency Act 1986; or
    - (iii) has been wound up under Part IV of the Insolvency Act 1986;
  - (s) is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
3. An applicant must include either—
- (a) an enhanced criminal record certificate in relation to the applicant or, where the applicant is a body corporate, in relation to each director of that body corporate, dated not earlier than 28 days before the date of the application; or
  - (b) an application for each such certificate duly completed and signed by the applicant, and, where the applicant is a body corporate, each director of that body corporate.
4. An application shall include the following undertakings:—
- (a) that the applicant will participate in appropriate and relevant NHS audit procedures;
  - (b) that the applicant will be bound by the terms of service applicable to the applicant;
  - (c) that the applicant will undertake to provide general dental services;
  - (d) that the applicant will notify the Board in writing within 7 days of its occurrence if the applicant, or where the applicant is a body corporate any director of the applicant—
    - (i) is charged in the British Islands with a criminal offence, the sentence for which could be a term of imprisonment or is charged elsewhere with an offence which, if committed in the British Islands would constitute such a criminal offence;

- (ii) is convicted of a criminal offence in the British Islands or is convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
- (iii) has, in summary proceedings, in respect of an offence, been the subject of an order discharging him or her absolutely (without proceeding to conviction);
- (iv) has accepted and agreed to pay either a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;
- (v) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995;
- (vi) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995;
- (vii) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995;
- (viii) has accepted a police caution in the British Islands;
- (ix) is bound over following a criminal conviction in the British Islands;
- (x) becomes the subject of any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world;
- (xi) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into the applicant's or such director's professional conduct, and there is a finding against the applicant or such director;
- (xii) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, where it is adverse;
- (xiii) becomes the subject of any investigation, proceedings or referral by another Health Board or equivalent body or the Tribunal, which might result in the applicant or such director being disqualified, conditionally disqualified, refused entry, allowed entry subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
- (xiv) is disqualified, conditionally disqualified, refused entry, allowed entry subject to conditions, removed or suspended from or refused admission or contingently removed from to any list or equivalent list;
- (xv) is, was in the preceding 6 months, or was at the time of the events that gave rise to the charge, conviction, investigation or referral, a director of a body corporate and that body corporate—
  - (aa) is charged in the British Islands with a criminal offence, or is charged elsewhere with an offence which, if committed in the British Islands would constitute a criminal offence;
  - (bb) is convicted of a criminal offence in the British Islands;
  - (cc) is convicted elsewhere of an offence which, if committed in the British Islands would constitute a criminal offence;
  - (dd) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;

- (ee) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into its provision of professional services, and there is a finding against it; or
- (ff) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, if adverse, together with details of the occurrence, including approximate dates, and where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome;
- (xvi) has sequestration of the applicant's or such director's estate awarded or is adjudged bankrupt;
- (xvii) is made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986;
- (xviii) makes a composition or arrangement with, or grants a trust deed for, the applicant's or such director's creditors;
- (xix) if a body corporate—
  - (aa) has an administrator, administrative receiver or receiver appointed in respect of it;
  - (bb) has an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986; or
  - (cc) is wound up under Part IV of the Insolvency Act 1986;
- (xx) is made subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order);
- (e) that the applicant will only provide orthodontic treatment, (where the applicant has applied for inclusion in the list on that basis);
- (f) that the applicant and where the applicant is a body corporate, all directors of the body corporate, consents to a request being made by the Health Board to the Agency, any employer or former employer of the applicant or any such director, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, into the applicant or a body corporate referred to in this paragraph or any such director and, for the purposes of this sub#paragraph, "employer" includes any partnership of which the applicant is or was a member;
- (g) that the applicant consents to disclosure of information in terms of regulation 14.

## PART IB

### INFORMATION, DECLARATIONS, CERTIFICATE, APPLICATIONS, UNDERTAKINGS AND, CONSENTS TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN SUB- PART B ONLY OF THE FIRST PART OF THE DENTAL LIST

1. An application shall contain the following information:—

- (a) (i) in the case of a dentist, the applicant's full name, sex, date of birth and private address; telephone number and e-mail address and the applicant's National Insurance number, if the applicant has one;
  - (a) (ii) in the case of a body corporate the body corporate's name, registered office and registered number, telephone number and e-mail address and a list of the full names, dates of birth, private addresses and (if they have one) the national insurance numbers, of all the directors and the company secretary;
  - (b) in the case of a dentist, the date of first registration and any subsequent registration as a dental practitioner in the register of dentists and registration number, dental qualifications registerable under the Dentists Act 1984 and when obtained;
  - (c) the address of the proposed Health Board premises where emergency dental services will be undertaken;
  - (d) (except where the applicant is a body corporate) chronological details of the applicant's professional experience (including the starting and finishing dates of each appointment together with explanation of any gaps between appointments) with any additional supporting particulars, and an explanation of why the applicant was dismissed from any post;
  - (e) details of any list or equivalent list from which the applicant has ever been disqualified, conditionally disqualified, removed, suspended, contingently removed or suspended or to which admission was refused or conditionally granted together with reasons for such disqualification, conditional disqualification, removal, suspension or refusal;
  - (f) (except where the applicant is a body corporate) name and addresses of two referees who are willing to provide clinical references relating to two recent posts as a dentist each of which lasted at least 3 months without a significant break and which may include a current post, or, where this is not possible a full explanation and name and address of an alternative referee or referees;
  - (g) (except where the applicant is a body corporate) if the applicant is a national of an EEA state, evidence that the applicant has a knowledge of English which, in the interests of the applicant and of patients who may receive emergency dental services from the applicant, is necessary for providing general dental services;
  - (h) (except where the applicant is a body corporate) whether any limitations have been imposed by any government organisation which restrict the applicant's ability to work in any specified capacity in Scotland and, if so, the details of these;
  - (i) if the applicant is, or has been where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud.
2. An application shall contain the following declarations as to whether or not the applicant, and where the applicant is a body corporate any director of the applicant—
- (a) has been convicted of a criminal offence in the British Islands or has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
  - (b) is currently the subject of any proceedings anywhere in the world which might lead to a conviction specified in sub-paragraph (a);
  - (c) has in summary proceedings in respect of an offence, been the subject of an order discharging the applicant absolutely (without proceeding to conviction);
  - (d) has accepted and agreed to pay either a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;



- (e) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995;
- (f) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995;
- (g) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995;
- (h) has accepted a police caution in the British Islands;
- (i) has been bound over following a criminal conviction in the British Islands;
- (j) has been subject to any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world where the outcome was adverse;
- (k) is currently subject to any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world;
- (l) is the subject of any investigation, proceedings or referral by another Health Board or equivalent body or the Tribunal which might result in the applicant, or where the applicant is a body corporate, any director of the applicant being disqualified, conditionally disqualified, refused entry, granted entry subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
- (m) is, or has been, where the outcome was adverse, the subject of any investigation into the applicant's or such director's professional conduct in respect of any previous or current employment;
- (n) is, or has in the preceding 6 months been, or was at the time of the events that gave rise to conviction, proceedings, investigation or referral, a director of a body corporate, or a member of a partnership (including a limited liability partnership) which—
  - (i) has been convicted of a criminal offence in the British Islands;
  - (ii) has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
  - (iii) is currently the subject of any proceeding anywhere in the world which might lead to such a conviction;
  - (iv) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world; or
  - (v) is, to the applicant's knowledge, or has been, where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud;
- (o) has had sequestration of the applicant's or such director's estate awarded or been adjudged bankrupt;
- (p) has been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986;
- (q) has made a composition or arrangement with, or granted a trust deed for, the applicant's or such director's creditors;
- (r) if a body corporate—
  - (i) has had an administrator, administrative receiver or receiver appointed in respect of it;
  - (ii) has had an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986; or
  - (iii) has been wound up under Part IV of the Insolvency Act 1986;

- (s) is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986.
3. An applicant must include either—
- (a) an enhanced criminal record certificate in relation to the applicant or where the applicant is a body corporate, in relation to each director, dated not earlier than 28 days before the date of the application; or
  - (b) an application for each such certificate duly completed and signed by the applicant and, where the applicant is a body corporate, each director of that body corporate.
4. An application shall include the following undertakings:—
- (a) that applicant will be bound by the terms of service applicable to the applicant;
  - (b) that the applicant will undertake to provide emergency dental services under general dental services;
  - (c) that the applicant will notify the Board in writing within 7 days of its occurrence if the applicant, or where the applicant is a body corporate any director of the applicant—
    - (i) is charged in the British Islands with a criminal offence, the sentence for which could be a term of imprisonment or is charged elsewhere with an offence which, if committed in the British Islands would constitute such a criminal offence;
    - (ii) is convicted of a criminal offence in the British Islands or is convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
    - (iii) has, in summary proceedings, in respect of an offence, been the subject of an order discharging him or her absolutely (without proceeding to conviction);
    - (iv) has accepted and agreed to pay either a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;
    - (v) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995;
    - (vi) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995;
    - (vii) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995;
    - (viii) has accepted a police caution in the British Islands;
    - (ix) is bound over following a criminal conviction in the British Islands;
    - (x) becomes the subject of any investigation into the applicant's or such director's professional conduct by any licensing, regulatory or other body anywhere in the world;
    - (xi) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into the applicant's or such director's professional conduct, and there is a finding against the applicant or such director;
    - (xii) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, where it is adverse;
    - (xiii) becomes the subject of any investigation, proceedings or referral by another Health Board or equivalent body or the Tribunal, which might result in the applicant or such director being disqualified, conditionally disqualified, refused entry, allowed entry

- subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
- (xiv) is disqualified, conditionally disqualified, refused entry, allowed entry subject to conditions, removed or suspended from or refused admission or contingently removed from to any list or equivalent list;
- (xv) is, was in the preceding 6 months, or was at the time of the events that gave rise to the charge, conviction, investigation or referral, a director of a body corporate and that body corporate—
- (aa) is charged in the British Islands with a criminal offence, or is charged elsewhere with an offence which, if committed in the British Islands would constitute a criminal offence;
  - (bb) is convicted of a criminal offence in the British Islands;
  - (cc) is convicted elsewhere of an offence which, if committed in the British Islands would constitute a criminal offence;
  - (dd) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
  - (ee) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into its provision of professional services, and there is a finding against it; or
  - (ff) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, if adverse,
- together with details of the occurrence, including approximate dates, and where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome;
- (xvi) has sequestration of the applicant's or such director's estate awarded or is adjudged bankrupt;
- (xvii) is made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986;
- (xviii) makes a composition or arrangement with, or grants a trust deed for, the applicant's or such director's creditors;
- (xix) if a body corporate—
- (aa) has an administrator, administrative receiver or receiver appointed in respect of it;
  - (bb) has an administration order made in respect of it under Schedule B1 to the Insolvency Act 1986; or
  - (cc) is wound up under Part IV of the Insolvency Act 1986;
- (xx) is made subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order);
- (d) that the applicant will only provide orthodontic treatment, (where the applicant has applied for inclusion in the list on that basis);
- (e) that the applicant and where the applicant is a body corporate, all directors of the body corporate, consents to a request being made by the Health Board to the Agency, any employer or former employer of the applicant or any such director, licensing, regulatory

or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, into the applicant or a body corporate referred to in this paragraph or any such director and, for the purposes of this sub#paragraph, “employer” includes any partnership of which the applicant is or was a member;

- (f) that the applicant consents to disclosure of information in terms of regulation 14.

## PART II

### INFORMATION, DECLARATIONS CERTIFICATE, UNDERTAKINGS AND CONSENTS, TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN THE SECOND PART OF THE DENTAL LIST

1. An application shall contain the following information:—
  - (a) the applicant’s full name, sex, date of birth, private address, telephone number and e-mail address and National Insurance number, if the applicant has one;
  - (b) date of first registration and any subsequent registration as a dental practitioner in the register of dentists and registration number, dental qualifications registerable under the Dentists Act 1984(67) and when obtained;
  - (c) where applicable, the address of the proposed premises and, in the case of a mobile surgery, the address to which correspondence may be sent;
  - (d) chronological details of the applicant’s professional experience (including the starting and finishing dates of each appointment together with explanation of any gaps between appointments) with any additional supporting particulars, and an explanation of why the applicant was dismissed from any post;
  - (e) whether the applicant will assist with the provision of general dental services which are restricted to orthodontic treatment;
  - (f) details of any list or equivalent list from which the applicant has ever been disqualified, conditionally disqualified, removed, suspended, contingently removed or suspended or to which admission was refused or conditionally granted together with reasons for such disqualification, conditional disqualification, removal, suspension, refusal or conditional admission;
  - (g) name and addresses of two referees who are willing to provide clinical references relating to two recent posts as a dentist each of which lasted at least 3 months without a significant break and which may include a current post, or, where this is not possible a full explanation and name and address of an alternative referee or referees;
  - (h) if the applicant is a national of an EEA state, evidence that the applicant 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 assisting with the provision of general dental services;
  - (i) whether any limitations have been imposed by any government organisation which restrict the applicant’s ability to work in any specified capacity in Scotland and, if so, the details of these;
  - (j) if the applicant is, or has been where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud; and

(k) the name and address, telephone number and e-mail address of the dentist, and the name, registered number, registered office, telephone number, e-mail address and the names of all the directors of any body corporate, whom the applicant will assist in the provision of general dental services.

2. An application shall contain the following declarations as to whether or not the applicant—
- (a) has been convicted of a criminal offence in the British Islands or has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
  - (b) is currently the subject of any proceedings anywhere in the world which might lead to a conviction specified in sub-paragraph (a);
  - (c) has in summary proceedings in respect of an offence, been the subject of an order discharging the applicant absolutely (without proceeding to conviction);
  - (d) has accepted and agreed to pay either a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;
  - (e) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995;
  - (f) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995;
  - (g) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995;
  - (h) has accepted a police caution in the British Islands;
  - (i) has been bound over following a criminal conviction in the British Islands;
  - (j) has been subject to any investigation into the applicant's professional conduct by any licensing, regulatory or other body anywhere in the world where the outcome was adverse;
  - (k) is currently subject to any investigation into the applicant's professional conduct by any licensing, regulatory or other body anywhere in the world;
  - (l) is the subject of any investigation, proceedings or referral by another Health Board or equivalent body or the Tribunal which might result in the applicant being disqualified, conditionally disqualified, refused entry, granted entry subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
  - (m) is, or has been, where the outcome was adverse, the subject of any investigation into the applicant's professional conduct in respect of any previous or current employment, or, where the applicant is a body corporate, any director of that body corporate has been subject to such;
  - (n) is, or has in the preceding 6 months been, or was at the time of the events that gave rise to conviction, proceedings, investigation or referral, a director of a body corporate, or a member of a partnership (including a limited liability partnership) which—
    - (i) has been convicted of a criminal offence in the British Islands;
    - (ii) has been convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
    - (iii) is currently the subject of any proceeding anywhere in the world which might lead to such a conviction;
    - (iv) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world; or

- (v) is, to the applicant's knowledge, or has been, where the outcome was adverse, the subject of any investigation by the Agency or any other body in relation to fraud;
  - (o) has had sequestration of the applicant's estate awarded or been adjudged bankrupt;
  - (p) has been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986;
  - (q) has made a composition or arrangement with, or granted a trust deed for, the applicant's creditors;
  - (r) in the case of a body corporate there is a director who is subject to a disqualification order under the Company Directors Disqualification Act 1986, the Companies (Northern Ireland) Order 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
3. An applicant must include either:
- (a) an enhanced criminal record certificate in relation to the applicant dated not earlier than 28 days before the date of the application; or
  - (b) an application for such a certificate duly completed and signed by the applicant.
4. An application shall include the following undertakings:—
- (a) that applicant will be bound by the terms of service relevant to the applicant;
  - (b) that the applicant will undertake to assist with the provision of general dental services;
  - (c) that the applicant will notify the Board in writing within 7 days of its occurrence if the applicant—
    - (i) is charged in the British Islands with a criminal offence, the sentence for which could be a term of imprisonment or is charged elsewhere with an offence which, if committed in the British Islands would constitute such a criminal offence;
    - (ii) is convicted of a criminal offence in the British Islands or is convicted elsewhere of an offence which would constitute a criminal offence if committed in the British Islands;
    - (iii) has, in summary proceedings, in respect of an offence, been the subject of an order discharging the applicant absolutely (without proceeding to conviction);
    - (iv) has accepted and agreed to pay either a fixed penalty under section 302 of the Criminal Procedure (Scotland) Act 1995 or a penalty under section 115A of the Social Security Administration Act 1992;
    - (v) has accepted a compensation offer under section 302A of the Criminal Procedure (Scotland) Act 1995;
    - (vi) has accepted a combined fixed penalty and compensation offer under section 302B of the Criminal Procedure (Scotland) Act 1995;
    - (vii) has accepted a work order under section 303ZA of the Criminal Procedure (Scotland) Act 1995;
    - (viii) has accepted a police caution in the British Islands;
    - (ix) is bound over following a criminal conviction in the British Islands;
    - (x) becomes the subject of any investigation into the applicant's professional conduct by any licensing, regulatory or other body anywhere in the world;
    - (xi) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into the applicant's professional conduct, and there is a finding against the applicant;

- (xii) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, where it is adverse;
- (xiii) becomes the subject of any investigation, proceedings or referral by another Health Board or equivalent body, which might result in the applicant being disqualified, conditionally disqualified, refused entry, allowed entry subject to conditions, removed, contingently removed or suspended from a list, or equivalent list;
- (xiv) is disqualified, conditionally disqualified, refused entry, allowed entry subject to conditions, removed or suspended from or refused admission or contingently removed from to any list or equivalent list;
- (xv) is, was in the preceding 6 months, or was at the time of the events that gave rise to the charge, conviction or investigation, a director or one of the persons with control of a body corporate and that body corporate—
  - (aa) is charged in the British Islands with a criminal offence, or is charged elsewhere with an offence which, if committed in the British Islands would constitute a criminal offence;
  - (bb) is convicted of a criminal offence in the British Islands;
  - (cc) is convicted elsewhere of an offence which, if committed in the British Islands would constitute a criminal offence;
  - (dd) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
  - (ee) is informed by any licensing, regulatory or other body anywhere in the world of the outcome of any investigation into its provision of professional services, and there is a finding against it; or
  - (ff) becomes, to the applicant's knowledge, the subject of any investigation by the Agency or any other body in relation to fraud, or is informed of the outcome of any such investigation, if adverse,
 

together with details of the occurrence, including approximate dates, and where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome;
- (d) that the applicant consents to a request being made by the Health Board to the Agency, any employer or former employer of the applicant, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, into the applicant or a body corporate referred to in this paragraph and, for the purposes of this sub#paragraph, "employer" includes any partnership of which the applicant is or was a member; and
- (e) that the applicant consents to disclosure of information in terms of regulation 14.

### PART III

#### INFORMATION WHICH MAY BE INCLUDED IN AN APPLICATION FOR INCLUSION IN THE DENTAL LIST

Details of any languages, other than English, spoken by the dentist.

## SCHEDULE 3

Regulation 35, Schedule 1, paragraphs 4  
and 5

### INFORMATION TO BE PROVIDED ABOUT CARE AND TREATMENT UNDER GENERAL DENTAL SERVICES

1. Details of arrangements in an emergency.
2. Details of repairs and replacements which are provided free of charge.
3. Explanation of care and treatment to be provided.
4. Details of arrangements if the dentist with whom a patient has entered into a continuing care arrangement or capitation arrangement is not available.
5. Details of care and treatment available under general dental services.
6. Explanation of NHS charges for general dental services and of entitlement to exemptions from and remission of these charges.
7. Explanation of the arrangements for cancelling appointments.
8. Explanation of the importance of regular care.
9. The consequences of the termination of a continuing care arrangement or a capitation arrangement.

## SCHEDULE 4

Regulation 35, Schedule 1, paragraph 28

### PRIOR APPROVAL OF CARE AND TREATMENT

#### PART I

##### ITEMS OF TREATMENT

Any item of treatment specified in Determination I of the Statement of Dental Remuneration as being an item of treatment for which the prior approval of the Board is required.

#### PART II

##### CARE AND TREATMENT

1. A course of care and treatment under a continuing care arrangement or a capitation arrangement, including any treatment on referral, or any occasional treatment, the cost of which exceeds or is likely to exceed £350.
2. Any orthodontic care and treatment to be provided by that dentist, the cost of which exceeds or is likely to exceed £350.
3. A reference in this part of this Schedule, to the cost of care and treatment means the cost of such care and treatment calculated in accordance with the Scale of Fees, but does not include the cost of—
  - (a) any care and treatment under a capitation arrangement for which the contractor is remunerated in accordance with Section X (treatment under capitation) in Determination I of the Statement of Dental Remuneration and for which the contractor receives no remuneration other than a capitation payment;



- (b) in the case of orthodontic care and treatment, fees for diagnosis, study models, retention and the extraction of any tooth for orthodontic purposes; and
- (c) any part of the care and treatment to be provided privately.

## SCHEDULE 5

Regulation 35, Schedule 1, paragraph 41

## INFORMATION TO BE INCLUDED IN PATIENT INFORMATION LEAFLETS

1. Where the contractor is a dentist the following personal and professional details of the contractor—
  - (a) name;
  - (b) sex;
  - (c) date of first registration and any subsequent registrations as a dental practitioner in the register of dentists and details of any dental qualifications registerable under the Dentists Act 1984(68).
2. Where the contractor is a body corporate—
  - (a) name;
  - (b) registered address.
3. The following additional information about the provision of general dental services at practice premises:—
  - (a) the address of all the practice premises and, where general dental services are provided at a mobile surgery only, the address to which correspondence may be sent;
  - (b) particulars of the days and hours when the dentist is or will be usually in attendance at the practice premises and, in the case of any mobile surgery, particulars of the places regularly visited by the dentist and the times of those visits;
  - (c) the names of all dentists at the practice premises including partners, associates, assistants and any dentists under any contractual or legal arrangement or relationship with the contractor, and details for them as specified in paragraph 1 of this Schedule;
  - (d) whether a dental hygienist or dental therapist is employed at the practice premises;
  - (e) whether there is access to the dental surgery without the use of stairs;
  - (f) whether the practice premises (including the dental surgery and toilets) are accessible to wheelchairs;
  - (g) whether the contractor or any person referred to in sub-paragraph (c) provides only orthodontic treatment;
  - (h) provided the contractor consents to their inclusion, details of any languages, other than English spoken by the contractor and by any dentist assisting the contractor with the provision of general dental services.

## SCHEDULE 6

Regulation 21

INFORMATION TO BE INCLUDED IN HEALTH  
BOARD PATIENT INFORMATION LEAFLET

1. The following personal and professional details of any salaried dentist providing general dental services at a health centre:—

- (a) name;
- (b) sex;
- (c) date of first registration and any subsequent registration as a dental practitioner in the register of dentists and details of dental qualifications registerable under the Dentists Act 1984.

2. The following additional information about the provision of general dental services at health centres:—

- (a) the address of all the health centres in the Health Board's area at which general dental services are provided;
- (b) particulars of the days and hours when general dental services are provided at the health centre, and where a Health Board has made arrangements for a salaried dentist to provide general dental services at a mobile surgery, particulars of the places visited regularly by the salaried dentist and the times of those visits;
- (c) whether a dental hygienist or dental therapist is employed at the health centre;
- (d) whether there is access to the dental surgery at the health centre without the use of stairs;
- (e) whether the health centre (including the dental surgery and toilets) is accessible to wheelchairs;
- (f) provided the salaried dentist consents to their inclusion, details of any languages other than English spoken by the salaried dentist.

## SCHEDULE 7

Regulation 33

REVOCATIONS

<i>(1)</i> <i>Regulations Revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>
The National Health Service (General Dental Services) (Scotland) Regulations 1996	<a href="#">S.I. 1996/177</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1996	<a href="#">S.I. 1996/841</a>	The whole regulations
The National Health Service (General Dental Services)	<a href="#">S.I. 1996/2060</a>	The whole regulations

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

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<i>(1)</i> <i>Regulations Revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>
(Scotland) Amendment (No. 2) Regulations 1996		
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1998	<a href="#">S.I. 1998/1663</a>	The whole regulations
The National Health Service (Pilot Schemes for Personal Dental Services: Miscellaneous Provisions and Consequential Amendments) Regulations 1998	<a href="#">S.I. 1998/2224</a>	Regulation 4
The National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998	<a href="#">S.I. 1998/2259</a>	Regulation 4
The National Health Service (Dental Services) (Miscellaneous Amendments) (Scotland) Regulations 1999	<a href="#">S.I. 1999/724</a>	Regulations 2-14
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 1999	<a href="#">S.S.I. 1999/51</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2000	<a href="#">S.S.I. 2000/188</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2000	<a href="#">S.S.I. 2000/352</a>	The whole regulations
The National Health Service (General Dental Services)	<a href="#">S.S.I. 2000/394</a>	The whole regulations

<i>(1)</i> <i>Regulations Revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>
(Scotland) Amendment (No. 3) Regulations 2000		
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2001	<a href="#">S.S.I. 2001/57</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2001	<a href="#">S.S.I. 2001/368</a>	The whole regulations
The National Health Service (General Dental Services and Dental Charges) (Scotland) Amendment Regulations 2002	<a href="#">S.S.I. 2002/99</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2002	<a href="#">S.S.I. 2002/192</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2002	<a href="#">S.S.I. 2002/268</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2003	<a href="#">S.S.I. 2003/131</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2003	<a href="#">S.S.I. 2003/422</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2004	<a href="#">S.S.I. 2004/37</a>	The whole regulations

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

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<i>(1)</i> <i>Regulations Revoked</i>	<i>(2)</i> <i>References</i>	<i>(3)</i> <i>Extent of revocation</i>
The National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004	<a href="#">S.S.I. 2004/292</a>	Regulation 7
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2005	<a href="#">S.S.I. 2005/95</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2006	<a href="#">S.S.I. 2006/137</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2006	<a href="#">S.S.I. 2006/321</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2007	<a href="#">S.S.I. 2007/191</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment (No. 2) Regulations 2007	<a href="#">S.S.I. 2007/422</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2009	<a href="#">S.S.I. 2009/96</a>	The whole regulations
The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2010	<a href="#">S.S.I. 2010/33</a>	The whole regulations

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## SCHEDULE 8

Regulation 34

### CONSEQUENTIAL AMENDMENTS

#### **The National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998**

1. In regulation 1(2) of the National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998<sup>(69)</sup>, in the definition of “the GDS Regulations” for “the National Health Service (General Dental Services) (Scotland) Regulations 1996”, substitute “the National Health Service (General Dental Services) (Scotland) Regulations 2010”.

#### **The Police Act 1997 (Criminal Records) (Scotland) Regulations 2006**

2. In regulation 12 of the Police Act 1997 (Criminal Records) (Scotland) Regulations 2006<sup>(70)</sup>—
- (a) in sub-paragraph (2)(a) for “undertaking to provide” substitute “or bodies corporate undertaking to provide, and persons approved to assist in providing”; and
  - (b) in sub-paragraph (3)(a) delete “(b) or (c)”.

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for arrangements for the provision of general dental services under the National Health Service in Scotland, and for the preparation and maintenance by each Health Board in Scotland of a dental list.

They supersede and revoke the National Health Service (General Dental Services) (Scotland) Regulations 1996 (“the 1996 Regulations”). These Regulations are consequential on the coming into force of amendments made by the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”) to the sections of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) dealing with general dental services and the disqualification of practitioners.

Those provisions of the 2005 Act were commenced on 2nd July 2010 by the Smoking, Health and Social Care (Scotland) Act 2005 (Commencement No. 6 Order 2010) ([S.S.I. 2010/185](#)).

The changes to the 1978 Act made by the 2005 Act include changes to the structure and content of the dental list.

Part I of the Regulations makes general provision for the purpose of these Regulations. Regulation 2 defines the terms used in the Regulations.

Part II of the Regulations make general arrangements for the provision of general dental services.

Regulation 3 specifies the terms of service (which are set out in Schedule 1) which shall be incorporated into the arrangements which a Health Board makes with a provider of general dental services.

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<sup>(69)</sup> [S.I. 1998/2259](#).

<sup>(70)</sup> [S.S.I. 2006/96](#), to which there are no relevant amendments.

Regulation 4 provides that each Health Board is to prepare and maintain a dental list which will be divided into 2 parts. The first part will contain the names and other details of dentists and bodies corporate who have undertaken to provide general dental services under arrangements with the Health Board in terms of the Regulations. In terms of regulation 2(1) a body corporate means a body corporate entitled by virtue of section 43 of the Dentists Act 1984 to carry on the business of dentistry. The second part of the dental list will contain names and other details of dentists who are approved by the Health Board to assist in the provision of such services.

The first part of the dental list is further divided into 2 sub-parts, namely sub-part A which is a list of dentists and bodies corporate who have undertaken to provide general dental services in the Health Board's area, and sub-part B which is a list of dentists and bodies corporate who have undertaken to provide emergency dental services in the Health Board's area.

Regulation 5 sets out the requirements and procedure for making an application for inclusion in a dental list, and for the notification of any changes in the information provided. An application may specify other Health Boards on whose dental list the applicant wishes to be included. A Health Board must inform such other Health Boards of its decision on whether or not to include the applicant in its dental list (regulation 5(10) and 7(4)). Inclusion in a dental list is to be allowed by another Health Board without further enquiry where the decision is that the applicant should be included in the dental list or where the applicant is already on a dental list (regulation 7(3)).

Paragraphs (12) to (15) contain provisions for applications by dentists undertaking vocational training.

Regulation 6 contains general provisions relating to the dental list. Paragraph (3) provides that 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, and 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 general dental list.

Regulation 7 sets out mandatory grounds for refusal to include a dentist or body corporate in a dental list.

Regulation 8 sets out circumstances in which a Health Board may defer a decision on an application to include a dentist or body corporate in the dental list, and the procedure to be followed.

Regulation 9 provides for local directories of dentists.

Regulation 10 sets out general requirements with which a dentist or body corporate included in a dental list must comply.

Regulation 11 sets out the grounds on which a Health Board may suspend a dentist or body corporate from the dental list, and the procedure to be followed.

Regulation 12 sets out the grounds of removal of a person's name from a Health Board's dental list and the procedure to be followed.

Regulation 13 contains provisions regarding the re-inclusion of a dentist or body corporate in a Health Board's dental list where the occurrence which led to the removal of that person's name is overturned on appeal or for any other reason.

Regulation 14 provides for certain information regarding the Health Board's decisions in relation to its dental list to be disclosed to the parties specified in that regulation.

Regulation 15 sets out the procedure if a dentist or body corporate wishes to withdraw from the Health Board's dental list.

Regulation 16 sets out the procedure for a Health Board to send information regarding deputies and assistants to the Scottish Dental Practice Board ("SDPB").

Regulation 17 sets out the requirements for providing information regarding associateship agreements, which agreements are defined in regulation 2(1).

Regulation 18 provides powers for the Health Board to make arrangements for the transfer of continuing care and capitation arrangements in respect of dentists and body corporates in certain specified circumstances.

Regulation 19 makes provision for a Health Board to make arrangements for the provision of emergency dental services in urgent cases at a hospital or other Health Board premises.

Regulation 20 provides that it is the Health Board's responsibility to make arrangements to enable a salaried dentist to provide emergency cover.

Regulation 21 provides that a Health Board must prepare and make available a patient information leaflet regarding services to be provided by salaried dentists, and at health centres.

Part III of the regulations contains provisions regarding the remuneration for general dental services.

Regulation 22 provides for the Scottish Ministers to make determinations relating to the matter specified in the Table in that regulation.

Regulation 23 makes provision for the SDPB to authorise the Common Services Agency to pay remuneration to contractors, or to cease such payments, subject to specified conditions.

Regulation 24 contains provisions regarding fees for listed drugs.

Regulation 25 makes provision for recovery of overpayments.

Part IV of the regulations contains regulation 26 which provides for the Scottish Ministers to make a Determination in respect of payments to be made to any dentist or body corporate suspended by a Health Board or by direction of a Tribunal.

Regulation 27 specifies the circumstances in which the SDPB may direct a dentist not to provide or assist in the provision of treatment for a specified period without obtaining prior approval of an estimate from the SDPB.

Regulation 28 provides that the SDPB may conduct or commission surveys or other research relating to the provision of general dental services.

Part Vi of the regulations contains regulation 29 which provides for the grounds and procedure to be followed in respect of appeals against decisions of the SDPB.

Part VII of the regulations contains provisions relating to miscellaneous matters.

Regulation 30 provides for publication of copies of the dental list and other information regarding general dental services.

Regulation 31 makes provision for the services of notices or documents.

Regulation 32 provides requirements for any signature required by the Regulations.

Regulation 33 and Schedule 7 repeals the 1996 Regulations, and makes transitional provisions.

Regulation 33(3) provides that the names of those persons who are on Part A or Part B of a Board's previous dental list in terms of the 1996 Regulations on 1st July 2010 will be automatically transferred to sub-part A or sub-part B respectively of the Board's dental list on 2nd July 2010. Such persons must provide the information specified in paragraph (6) by 1st October 2010 or such later date as the Board may permit.

Paragraph (9) provides that a dentist who wishes to be included in the second part of the Health Board's dental list can assist in the provision of general dental services without the name of that person being included in that list until 1st October 2010.

Regulation 34 and Schedule 8 provide for consequential amendments.

Regulation 35 gives effect to Schedules 3, 4 and 5.

Schedule 1 sets out the terms of service for those undertaking to provide general dental services.

Part I makes general provisions.



Paragraph 1 deals with the interpretation of terms used in the Schedule.

Paragraph 2 incorporates the provisions of other regulations into the terms of service.

Paragraph 3 specifies the services which must or may be provided as general dental services.

Part II of the Schedule contains the terms of service in respect of continuing care arrangements, capitation arrangements and treatment on referral.

Paragraph 4 sets out the requirements for a continuing care arrangement.

Paragraph 5 sets out the requirements for a capitation arrangement.

Paragraph 6 sets out a contractor's obligations as regards providing emergency cover.

Paragraph 7 sets out a contractor's obligations regarding the repair or replacement of restorations.

Paragraph 8 provides for circumstances in which a continued care arrangement may be terminated.

Paragraph 9 provides for circumstances in which the capitation arrangement may be terminated.

Paragraph 10 sets out the procedure to be followed where a contractor wishes to terminate a continuing care arrangement or a capitation arrangement.

Paragraph 11 provides that a contractor may notify a Health Board that it wishes a continuing care arrangement or a capitation arrangement with any person to be terminated immediately if that person has committed an act of violence against any dentist, dental care professional or any other person employed or engaged by the contractor or has behaved in such a way that such a person has feared for his or her safety.

Paragraph 12 provides for a contractor to refer a patient to another contractor or to hospital or other service provided under Part III of the 1978 Act where that contractor cannot provide the necessary facilities, experience or expertise to provide the care or treatment required.

Paragraph 13 provides that a dentist may refer a patient for care or treatment by a dental student in specified circumstances.

Paragraph 14 sets out the circumstances in which a contractor may accept a patient who has been referred to the contractor by another dentist, and the obligations of the contractor in these circumstances.

Paragraph 15 provides that the contractor must notify the Health Board in writing if the contractor is unable to complete any care and treatment.

Paragraph 16 provides that a contractor must provide a summary of the care and treatment which the patient has received if the patient intends to enter into an arrangement with another contractor.

Paragraph 17 sets out the circumstances in which the contractor may provide private care or treatment.

Part III of the Schedule sets out the terms of service relating to the provision of occasional treatment.

Paragraph 18 specifies the items which may be provided as occasional treatment.

Paragraph 19 makes provision for circumstances in which a contractor for whom a patient requests occasional treatment can refer the patient for the provision of that additional treatment by another contractor or by a hospital or other service provided under Part III of the 1978 Act.

Part IV of the Schedule sets out additional terms of service for all dentists.

Paragraph 20(1) sets out circumstances in which a dentist or contractor shall not claim or accept payment of any fee.

Paragraph 20(2) specifies the way in which a claim for a fee or other remuneration for the provision of general dental services shall be submitted.

Paragraph 21 provides that a Health Board may conduct or commission surveys or other research related to the provision of general dental services at no less than 6 monthly intervals.

Paragraph 22 sets out the general standards of care to be employed in providing or assisting with the provision of care and treatment under general dental services.

Paragraph 23 imposes duties on a dentist undertaking any procedure for which sedation of the patient is necessary.

Paragraph 24 deals with the supply of listed drugs to a patient.

Paragraph 25 specifies the requirements for a dentist ordering such listed drugs on a prescription form.

Paragraph 26 provides that a contractor may provide general dental services at a place at which the patient normally resides if requested to do so by a patient who is unable to leave home unaccompanied because of physical or mental illness or disability.

Paragraph 27 specifies the records which must be kept by a contractor.

Paragraph 28 sets out the procedure to be followed where care and treatment requires prior approval from the SDPB.

Paragraph 29 specifies the procedure to be followed by a dentist submitting an estimate to the SDPB for approval.

Paragraph 30 specifies the procedure to be followed where a person declares he/she does not have to pay charges for care and treatment.

Paragraph 31 specifies the procedure to be followed where a dentist is recalled to practice premises outwith normal hours in order to provide treatment in an emergency.

Paragraph 32 specifies the requirements on a contractor regarding completion of care and treatment under a continuing care arrangement or a capitation arrangement or treatment on referral.

Paragraph 33 provides that a dentist may in the provision of general dental services arrange for dental care and treatment to be given by dental care professionals.

Paragraph 34 imposes obligations on dentists regarding post graduate education.

Paragraph 35 obliges a contractor to display information about charges for general dental services.

Paragraph 36 sets out the requirements for a practice based complaints procedure to be operated by contractors.

Paragraph 37 sets out the cooperation which a contractor or dentist must give in investigation of a complaint by a Health Board.

Paragraph 38 provides that a contractor must provide a Health Board with an annual return regarding complaints received.

Paragraph 39 provides that a contractor must provide the Health Board with information regarding the contractor's professional indemnity insurance if requested to do so.

Paragraph 40 specifies the clinical audit activities which must be undertaken by dentists.

Part V of the Schedule sets out additional terms of service for dentists other than salaried dentists.

Paragraph 41 makes provision regarding patient information leaflets.

Paragraph 42 sets out the requirements for the premises at which general dental services are provided.

Paragraph 43 provides that the provisions of paragraph 20 shall not have effect in relation to a claim for loss of remuneration if a patient fails to keep an appointment for general dental services.

Paragraph 44 makes provision for the circumstances in which care and treatment may be provided by a deputy or assistant.

Part VI of the Schedule provides additional terms of service for salaried dentists.

Paragraph 45 provides that a salaried dentist shall attend at such premises on such days and such hours as may be agreed with the Health Board, and shall not provide on such premises any care and treatment which is not part of general dental services, without the permission of the Health Board.

Paragraph 46 sets out that the records referred to in paragraph 27(1) shall be the property of the Health Board.

Paragraph 47 makes provision for any drugs or the provision of drugs supplied under paragraph 24 obtained by a salaried dentist.

Paragraph 48 provides that a salaried dentist shall make available the patient information leaflet compiled by the Health Board under regulation 21.

Paragraph 49 sets out the circumstances which an arrangement between a Health Board and a salaried dentist for the provision of general dental services may be terminated.

Schedule 2 lists the information and undertakings to be included in an application for inclusion in a dental list.

Regulation 5(1)(b) provides that an application to be included in sub-part A of the first part of the dental list shall include the information, certificate or application, undertakings, consents and declarations specified in Part IA of Schedule 2.

Regulation 5(1)(c) provides that an application to be included in sub-part B of the first part of the dental list shall include the information certificate or application, undertakings, consents and declarations specified in Part IB of Schedule 2.

Regulation 5(1)(d) provides that an application to be included in the second part of the dental list shall include the information, certificate, undertakings, consents and declarations set out in Part II of Schedule 2.

Part III of Schedule 2 provides for information which may be included in an application for inclusion in a dental list, which is specified as details of any languages, other than English, spoken by the dentist.

Schedule 3 specifies the information to be provided about care and treatment under general dental services in terms of paragraphs 4(1)(a) and 5(1)(b) of Schedule 1.

Schedule 4 specifies the items for which prior approval of care and treatment from the SDPB is required in terms of paragraph 28 of Schedule 1.

Schedule 5 specifies the information to be included in patient information leaflets in terms of paragraph 41 of Schedule 1.

Schedule 6 provides the information to be included in the Health Board patient information leaflet in terms of regulation 21.

Schedule 7 specifies the regulations revoked by these Regulations.

Schedule 8 sets out consequential amendments.