

**2010 No. 227**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Tribunal) (Scotland) Amendment  
Regulations 2010**

<i>Made</i> - - - -	<i>9th June 2010</i>
<i>Laid before the Scottish Parliament</i>	<i>10th June 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 29(4), 29A(5), 32, 32C(2), 105(7), 106(a) and 108(1) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

In accordance with paragraph 24(1) of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(b), they have consulted the Administrative Justice and Tribunals Council and its Scottish Committee.

**Citation and commencement**

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

**Amendment of the National Health Service (Tribunal) (Scotland) Regulations 2004**

2.—(1) The National Health Service (Tribunal) (Scotland) Regulations 2004(c) are amended in accordance with the following paragraphs.

(2) In regulation 2(1)(d) (interpretation and forms)—

(a) insert after the definition of “conditional disqualification”—

““dental body corporate” means a body corporate entitled, by virtue of section 43 of the Dentists Act 1984(e), to carry on the business of dentistry;”;

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- (a) 1978 c.29; section 29(4) was inserted by the Health Act 1999 (c.8) (“the 1999 Act”), section 58 and amended by the Smoking, Health and Social Care (Scotland) Act 2005 (2005 asp 13) (“the 2005 Act”), section 26(1) and (2); section 29A was inserted by the 1999 Act, section 58 and amended by the 2005 Act, section 26(3); section 32 was amended by the National Health Service (Amendment) Act 1995 (c.31) (“the 1995 Act”), section 11 and the Schedule, by the 1999 Act, Schedule 4, paragraph 50 and by the 2005 Act, section 26(6); section 32C was inserted by the 1995 Act, section 8; 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; section 108(1) defines “prescribed” and “regulations”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (b) 2007 c.15; the tribunal constituted in accordance with section 29 of, and Schedule 8 to, the National Health Service (Scotland) Act 1978 is a listed tribunal for the purposes of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007, by virtue of S.S.I. 2007/436.
- (c) S.S.I. 2004/38.
- (d) Regulation 2 was amended by S.S.I. 2004/122, 2005/335 and 2006/122.
- (e) 1984 c.24; section 43 was substituted by S.I. 2005/2011, Part 5, article 39.

- (b) in the definition of “practitioner”, after “dentist,” insert “dental body corporate,”;
  - (c) in the definition of “relevant professional body” after “dentist” insert “or dental body corporate”.
- (3) In the following regulations for “2” substitute “5”:—
- (a) 6(1)(b) (submission of representations);
  - (b) 11(1) and (2)(a) (submission of statement-in-answer or other statement and supporting documents);
  - (c) 22(1)(c)(b) and (5) (applications for interim suspension); and
  - (d) 24(1)(b) (procedure in regard to application to the tribunal for a review).
- (4) In regulation 6(3A)(c) (submission of representations), for “or an ophthalmic list” substitute “, an ophthalmic list or a dental list”.
- (5) In regulation 22(9)(a) (applications for interim suspension) for ““regulation 22(6) or (7)”, substitute ““regulation 22(6) or (7)””.
- (6) In regulation 31(1)(c)(d) (service of forms, etc.), after “ophthalmic body corporate” in each place it occurs, insert “or dental body corporate”.
- (7) In regulation 33 (attendance by member of Council on Tribunals) and in the heading to that regulation, for “Council on Tribunals” substitute “Administrative Justice and Tribunals Council”.
- (8) In each of the forms 1, 2, 3 and 4 set out in Schedule 2(e) (forms for use in proceedings in connection with representations and applications) after “dentist,” insert “dental body corporate,”.

*SHONA ROBISON*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
9th June 2010

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(a) Regulation 11(2) was amended by S.S.I. 2004/122.  
(b) Regulation 22(1) was amended by S.S.I. 2004/122.  
(c) Regulation 6(3A) was inserted by S.S.I. 2004/122 and amended by S.S.I. 2004/271 and 2006/122.  
(d) Regulation 31(1)(c) was amended by S.S.I. 2006/122.  
(e) The forms were substituted by S.S.I. 2006/122.

## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Tribunal) (Scotland) Regulations 2004 (“the principal Regulations”) which make provision relating to the NHS Tribunal, representations to it and its procedures.

These Regulations are consequential upon the coming into force of certain amendments made to the National Health Service (Scotland) Act 1978 (“the 1978 Act”) by the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”) as regards dental bodies corporate. They also make an amendment to the administrative rules relating to the copy documents to be submitted to the NHS Tribunal.

Regulation 2(2)(a) inserts a new definition of “dental body corporate”. It is defined by reference to section 43 of the Dentists Act 1984, which has been amended by the Dentists Act 1984 (Amendment) Order 2005.

Regulation 2(2)(b) amends the definition of “practitioner” by inserting “dental body corporate”.

Regulation 2(2)(c) amends the definition of “relevant professional body” by inserting “dental body corporate”.

Regulation 2(3) amends regulations 6(1)(b), 11(1) and (2), 22(1)(c) and (5) and 24(1)(b) of the principal Regulations to require 5 copies of the documents to which those regulations refer to be lodged instead of 2.

Regulation 2(4) amends regulation 6(3A) of the principal Regulations to insert reference to a dental list.

Regulation 2(5) makes a textual amendment to regulation 22(9)(a) of the principal Regulations correcting a previous typographical error.

Regulation 2(6) amends regulation 31(1)(c) of the principal Regulations by inserting “dental body corporate”.

Regulation 2(7) amends regulation 33 of the principal Regulations by substituting reference to the Administrative Justice and Tribunals Council for reference to the Council on Tribunals following the replacement of the latter by the former in terms of the Tribunals, Courts and Enforcement Act 2007.

Regulation 2(8) amends the forms 1, 2, 3 and 4 in Schedule 2 to the principal Regulations by inserting “dental body corporate” in the appropriate places.

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