
STATUTORY INSTRUMENTS

1991 No. 581

**NATIONAL HEALTH SERVICE
ENGLAND AND WALES**

**The National Health Service (Dental Services)
(Miscellaneous Amendments) Regulations 1991**

<i>Made</i>	- - - -	<i>10th March 1991</i>
<i>Laid before Parliament</i>		<i>11th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State for Health, in exercise of powers conferred by sections 35(1) and (4), 36(1) and (3), 37(1)(a), 78(1A), 79(1), 79A, 83 and 126(4) of, and paragraphs 2(6) and 3(3) of Schedule 12 to, the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Dental Services) (Miscellaneous Amendments) Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations, “the principal Regulations” means the National Health Service (General Dental Services) Regulations 1973(2).

-
- (1) 1977 c. 49; see section 128(1) for the definitions of “prescribed” and “regulations”. Section 35(1) was substituted by S.I. 1985/39, article 7(9). Section 36 was amended by S.I. 1981/432, article 3(3), the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”, section 5(4) and Schedule 3, paragraph 5, S.I. 1985/39, article 7(10), the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”, section 25(1) and Schedule 2, paragraph 4 and the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 24, and was extended by the 1988 Act, section 17. Section 37 was renumbered so as to become section 37(1) by section 12(2) of the 1988 Act, and section 37(1)(a) amended by section 12(1), and section 25 and Schedule 3 of the 1988 Act. Sections 78(1 A) and 79A were inserted by, and section 79 was amended by, the 1988 Act, section 11. Section 83 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 64 and the 1984 Act, section 24 and Schedule 8. Section 126(4) was amended by the 1990 Act, section 65(2). Paragraph 2 of Schedule 12 was amended by the 1980 Act, Schedule 5, paragraph 2 and by the 1988 Act, section 11(8) and Schedule 2, paragraph 8. By section 2(1) of the 1990 Act references to a Family Practitioner Committee are to be construed as references to a Family Health Services Authority.
- (2) S.I. 1973/1468, amended by S.I. 1974/53, 1978/950, 1980/986, 1981/774, 1982/288, 1984/760 and 1424, 1985/39 and 1336, 1986/1499, 1987/736, 1512 and 1965, 1988/576 and 2265, 1989/394, 613, 832 and 1629 and 1990/1638, 1938 and 2501.

Amendment of regulation 4 of the principal Regulations

2. In regulation 4(1) of the principal Regulations (dental list) after sub-paragraph (b) there is inserted the following sub-paragraph:—

“(c) regulation 4A.”.

Insertion of regulation 4A into the principal Regulations

3. After regulation 4 of the principal Regulations (dental list) there is inserted the following regulation:—

“Restrictions on the right to be included in a dental list

4A. A dentist shall not be entitled to have his name included in the dental list prepared by any Family Authority if he has previously withdrawn his name from that or any other dental list or any list prepared pursuant to section 25(2)(a) of the National Health Service (Scotland) Act 1978⁽³⁾ in circumstances where the Secretary of State has certified for the purposes of regulation 8(7) of the National Health Service (Superannuation) Regulations 1980⁽⁴⁾ or, as the case may be, regulation 10(4) of the National Health Service (Superannuation) (Scotland) Regulations 1980⁽⁵⁾ that, in the interests of the efficiency of general dental services, he should cease to provide such services.”.

Amendment of regulation 9 of the principal Regulations

4. In regulation 9 of the principal Regulations (constitution of the Dental Practice Board) for the words “seven other members of whom five shall be dentists” there are substituted the words “six other members of whom three shall be dentists”.

Amendment of regulation 23 of the principal Regulations

5. In regulation 23(1) of the principal Regulations (Statement of Dental Remuneration) after the entries relating to Determination VIII (postgraduate education allowances) there are added the following entries in the appropriate columns:—

“IX	Reimbursement of non-domestic rates.”
-----	---------------------------------------

Substitution of regulation 24 in the principal Regulations

6. For regulation 24 of the principal Regulations (approval of payments) there is substituted the following regulation:—

“Approval and payments

24.—(1) The Board shall, where it is satisfied—

- (a) that a patient has been accepted by a dentist, other than a salaried dentist, under a continuing care arrangement or a capitation arrangement or for treatment on referral, make the payments which, in accordance with the Scale of Fees, fall to be made by it to the dentist in respect of such an arrangement or referral; or

(3) 1978 c. 29.

(4) S.I. 1980/362; the relevant amending instrument is S.I. 1981/1205.

(5) S.I. 1980/1177.

- (b) that a continuing care arrangement or capitation arrangement has terminated or treatment on referral has terminated or has been completed, cease such payments to the dentist.

(2) The Board shall, where it approves a claim for remuneration made by a dentist, 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,

completed by the dentist, pay, in accordance with the Scale of Fees, the remuneration due to the dentist in respect of such care and treatment, treatment on referral or occasional treatment.

(3) The Board shall, where it approves a claim for remuneration made by a dentist, other than a salaried dentist, in any case falling within paragraph 14(1) or 16(4) of Schedule 1 (inability of dentist to complete treatment), pay, in accordance with the Scale of Fees, and without prejudice to the National Health Service (Dental Charges) Regulations 1989(6), the remuneration due to that dentist in respect of such care and treatment or occasional treatment as he has provided.

(4) The remuneration which it is the function of the Board to pay shall be paid in accordance with Determinations III, IV, VI, VII, VIII and IX of the Statement of Dental Remuneration.

(5) The Family Authority—

- (a) shall pay to a salaried dentist remuneration in accordance with Determination II, and
- (b) shall pay to a dentist, other than a salaried dentist, remuneration in accordance with Determination V.

(6) In the case of orthodontic care and treatment the Board may make such payments on account as it considers appropriate pending completion of that care and treatment.”

Amendment of regulation 26 of the principal Regulations

7. In regulation 26(1) of the principal Regulations (recovery of overpayments) for the words from “Where the Committee considers” to “the Committee directs otherwise, shall” there are substituted the words “Where the Family Authority or the Board considers it has made a payment to a dentist owing to an error or in circumstances when it was not due, the Family Authority or, as the case may be, the Board shall, except to the extent that the Secretary of State on an application of the Family Authority or, as the case may be, the Board directs otherwise”.

Amendment of regulation 26D of the principal Regulations

8. In regulation 26D of the principal Regulations (payments in consequence of suspension—amount and lime of payments)—

- (a) in paragraph (5) for the words “and make an appropriate payment of any arrears” there are substituted the words “and determine that a claimant is entitled to an appropriate payment of any arrears”;
- (b) there are inserted after paragraph (5) the following paragraphs:—

“(5A) Where the Family Authority determines that a claimant is entitled to a payment, it shall inform the Board of the amount of that payment and authorise the Board to make the payment to the claimant.

(5B) The Board shall make to the claimant any payments authorised by the Family Authority.”; and

- (c) in paragraph (6) for the words from “Payments shall,” to “in arrears” there are substituted the words “Payments under paragraph (5B) shall be made monthly in arrears”.

Amendment of regulation 26E of the principal Regulations

9. In regulation 26E of the principal Regulations (payments in consequence of suspension-change of circumstances)—

- (a) in paragraph (1) the words “by the Committee” are omitted; and
- (b) in paragraph (2)—
- (i) for the words “it shall make” there are substituted the words “it shall determine”; and
- (ii) after the words “that change” there are inserted the words “and notify the Board accordingly”.

Amendment of regulation 26F of the principal Regulations

10. In regulation 26F of the principal Regulations (payments in consequence of suspension-overpayments)—

- (a) for the words “the Committee” where they first occur there are substituted the words “the Board”; and
- (b) for the words “the Committee’s application” there are substituted the words “the Board’s application”.

Amendment of Schedule 1 to the principal Regulations

11.—(1) Paragraph 25 of Schedule 1 to the principal Regulations (completion of an estimate)—

- (a) in sub-paragraph (3), head (a) is omitted; and
- (b) in sub-paragraph (4)(a) for the words “by the patient,” there are substituted the words “, by the patient or by any person acting on behalf of the patient”; and
- (c) sub-paragraph (4)(c) is omitted.

(2) In paragraph 37(10) of Schedule 1 to the principal Regulations (deputies and assistants) the words “or section 8(2) of the Health and Medicines Act 1988” are omitted.

Amendment of the National Health Service (Service Committees and Tribunal) Regulations 1974

12.—(1) The National Health Service (Service Committees and Tribunal) Regulations 1974(7) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 10 (decision of Family Health Services Authority)—

- (a) in paragraph (10) for the word “Where” where it first occurs there are substituted the words “Subject to paragraph (10A), where”; and

(7) S.I. 1974/455; the relevant amending instruments are S.I. 1974/907, 1982/288, 1985/39, 1987/445, 1989/1630 and 1990/538 and 1638.

(b) after paragraph (10) there is inserted the following paragraph:—

“(10A) Where, in the case of a dentist, a Family Health Services Authority determine under this regulation that action should be taken in accordance with—

(a) paragraph (5)(a), by way of a deduction from the dentist’s remuneration and a payment of the amount deducted to the person mentioned in that provision; or

(b) paragraph (5)(b), by way of a withholding from the dentist’s remuneration, that Authority shall notify the Dental Practice Board and the Board shall take that action.”.

(3) In regulation 14 (procedure on withholding money) after paragraph (1) there is inserted the following paragraph:—

“(1A) Where, in the case of a dentist, a Family Health Services Authority determine to recover any such amount from the dentist’s remuneration, that Authority shall notify the Dental Practice Board and the Board shall recover that amount from the remuneration of the dentist.”.

Amendment of the National Health Service (Dental Charges) Regulations 1989

13.—(1) The National Health Service (Dental Charges) Regulations 1989(8) shall be amended in accordance with the following paragraphs of this regulation.

(2) In regulation 4 (calculation of charges)—

(a) in paragraph (4) after the words “health authority”—

(i) in the first place where they occur there are inserted the words “or NHS trust”; and

(ii) in the second place where they occur there are inserted the words “,an NHS trust”; and

(b) in paragraph (5) for “£150” in each place where it occurs there is substituted “£200”.

(3) In regulation 5 (conditions for exemption under the Act)—

(a) in paragraph (1)(b) after the words “Secretary of State” there are inserted the words “or an NHS trust”; and

(b) in paragraph (4) after the words “Secretary of State” there are inserted the words “, an NHS trust”.

(4) In regulation 6(1) (making and recovery of charges) for the words “or health authority” there are substituted the words “, health authority or NHS trust”.

(5) In regulation 8(1) (charges for more expensive supplies and repairs)—

(a) after the words “Secretary of State” there are inserted the words “or NHS trust”; and

(b) for the words “he may” there are substituted the words “he or, as the case may be, the trust may”.

(6) In regulation 11(1) (reduction of remuneration and accounting for charges—general dental services) for the words “a Family Practitioner Committee” there are substituted the words “the Board”.

Transitional provisions

14.—(1) Where, before 1st April 1991, the Board has authorised a Family Health Services Authority to pay remuneration in accordance with regulation 24(1), (2) or (3) of the principal Regulations as in force before that date and the Family Health Services Authority has not paid that

remuneration by that date, regulation 24(1C) of the principal Regulations shall continue to have effect in relation to the payment of that remuneration as if these Regulations had not come into force.

(2) Where, before 1st April 1991, in the case of a dentist—

- (a) a Family Health Services Authority has determined that action should be taken in accordance with regulation 10(5)(a) or (b) of the National Health Service (Service Committees and Tribunal) Regulations 1974; or
- (b) the Secretary of State has directed a Family Health Services Authority to recover an amount by deduction from the dentist's remuneration in accordance with regulation 14(1) of those Regulations,

and the Authority has not taken that action or, as the case may be, recovered the whole or any part of such amount by that date, the Authority shall notify the Dental Practice Board and the Board shall take that action or, as the case may be, recover any such amount, or any balance due, from the dentist's remuneration.

Signed by authority of the Secretary of State for Health.

10th March 1991

Hooper
Parliamentary Under-Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Dental Services) Regulations 1973 (“the principal Regulations”) which regulate the terms on which general dental services are provided under the National Health Service Act 1977.

A new regulation 4A is inserted in the principal Regulations to remove the right of a dentist to be included in a dental list where the Secretary of State has certified that the dentist has previously withdrawn his name from such a list in the interests of the efficiency of general dental services (regulation 3). Regulation 4 amends regulation 9 of the principal Regulations to alter the composition of the Dental Practice Board (“the Board”), and regulation 5 adds a reference in regulation 23 of the principal Regulations to a new Determination IX (governing the reimbursement of dentists' non-domestic rates) in the Statement of Dental Remuneration published under that regulation.

Regulations 6 to 10 make amendments to the principal Regulations which are consequential upon the National Health Service (Dentists' Remuneration-Special Arrangement) Order 1991 ([S.I. 1991/580](#)) which confers upon the Board the function of paying dentists' remuneration (except for the remuneration of salaried dentists and incentive scheme allowances, which will continue to be paid by Family Health Services Authorities). In particular, regulation 6 substitutes a new regulation 24 in the principal Regulations in connection with the approval and payment of dentists' remuneration, regulation 7 amends regulation 26 of the principal Regulations as it relates to the recovery of overpayments, and regulations 8, 9 and 10 amend the provisions of the principal Regulations which govern payments to dentists whose registration has been suspended by the General Dental Council. An amendment is also made to the National Health Service (Service Committees and Tribunal) Regulations 1974 to provide for the Board, rather than the Family Health Services Authority, to recover amounts from the remuneration of a dentist who has been found to have acted in breach of his terms of service (regulation 12).

Regulation 11 amends paragraph 25 of the terms of service for dentists (set out in Schedule 1 to the principal Regulations) to enable a dentist, by arrangement with the Board, to use a computer to send to the Board estimates which relate to care and treatment and occasional treatment to be provided for persons under the age of 18.

These Regulations also amend the National Health Service (Dental Charges) Regulations 1989, principally in consequence of the provision of NHS services from 1st April 1991 by NHS trusts under the National Health Service and Community Care Act 1990, so that charges may be made in respect of the supply of dental appliances by NHS trusts (regulation 13(2)(a), (3), (4) and (5)). Regulation 13(2)(b) amends regulation 4(5) of those Regulations to increase from £150 to £200 the maximum contribution which a patient may be required to make towards the cost of his treatment under general dental services.

These Regulations also make transitional provision in connection with the payment of dentists' remuneration (regulation 14), and make other amendments which are either of a minor nature or are consequential upon amendments already described in this Note.