
STATUTORY INSTRUMENTS

1993 No. 2224 (S.234)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1993

<i>Made</i>	- - - -	<i>9th September 1993</i>
<i>Laid before Parliament</i>		<i>10th September 1993</i>
<i>Coming into force</i>	- -	<i>1st October 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 25(1), (2) and (2B), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(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 (General Dental Services) (Scotland) Amendment Regulations 1993 and shall come into force on 1st October 1993.

(2) In these Regulations—

- (a) the “principal Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1974(2);
- (b) “the 1978 Act” means the National Health Service (Scotland) Act 1978.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) the following definitions shall be inserted in the appropriate places in the alphabetical order—

“Appeal Body” means the body referred to in regulation 4ZB;

“appeal committee” means a committee appointed by the Appeal Body in accordance with Regulation 4ZC(6);

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- (1) 1978 c. 29; section 25(2) was extended by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 11, section 17; section 25(2)(b) was substituted by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(6) and was further amended by the 1990 Act, section 40(2); section 25(2B) was inserted by the 1990 Act, section 40(3); section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.
 - (2) S.I. 1974/505; relevant amending instruments are S.I. 1990/1772, 1991/569 and 1992/641.

“approved trainer” means a dentist on a dental list and who is approved by the Scottish Dental Vocational Training Committee as being a dentist who has the requisite skills and suitable practice facilities to enable him to act as a trainer;

“Council” means the Scottish Council for Postgraduate Medical and Dental Education established by the Scottish Council for Postgraduate Medical and Dental Education Order 1993(3);

“vocational training” means a period of one year’s full time employment (or an equivalent period of part-time employment) undertaken wholly after 30th September 1993 during which a dentist is employed under a contract of service by an approved trainer to provide a wide range of dental care and treatment and to attend such study days as that contract requires with the aim and objectives set out in Schedule 1F;

“vocational training certificate” means a certificate confirming that a dentist has completed vocational training issued:–

- (a) in Scotland by the Director of postgraduate dental education, the chairman of the Scottish Dental Vocational Training Committee or a regional general dental practice vocational training adviser;
- (b) in England, Wales or Northern Ireland by a postgraduate dental dean or a Director of postgraduate dental education; or
- (c) by the Director of the Royal Naval Dental Service, the Director of the Royal Army Dental Corps or the Director of the Dental Branch of the Royal Air Force.

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

- (a) in Scotland under regulation 4ZA,
- (b) in England and Wales under regulation 5A of the National Health Service (General Dental Services) Regulations 1992(4), and
- (c) in Northern Ireland under the General Dental Services (Amendment) Regulations (Northern Ireland) 1993.

“voluntary vocational training certificate” means a vocational training certificate or a letter confirming that a dentist has completed vocational training on or before 30th September 1994 and signed in Scotland by the Chairman of the Scottish Dental Vocational Training Committee or an officer of a regional committee for postgraduate dental education, in England and Wales by a postgraduate dental dean or Director of postgraduate dental education, and in Northern Ireland by the Adviser in vocational training.

Amendment of regulation 4 of the principal Regulations

3.—(1) Regulation 4 of the principal Regulations (dental list) is amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (2), at the beginning, there shall be inserted “Subject to paragraphs (2ZA) and (2ZB),”.

(3) After paragraph (2) there shall be inserted–

“(2ZA) A dentist who wishes to have his name included in the dental list but who does not have a vocational training number shall apply to the Council for a vocational training number, and his application for a vocational training number shall be dealt with in accordance with regulation 4ZA before the Health Board determines his application under paragraph (2).

(3) S.I. 1993/577.

(4) S.I. 1992/661.

(2ZB) The period of 14 days specified in paragraph (2) shall not apply to an application under that paragraph by a dentist who does not have a vocational training number until such a number has been allocated to him.”.

Applications for vocational training numbers

4. After regulation 4 there shall be inserted the following new regulations:–

“Applications for vocational training numbers

4ZA.—(1) An application for a vocational training number shall be made in writing to the Council and–

- (a) shall state that the dentist has also made an application under regulation 4(2), and–
 - (i) specify the Health Board to which that application has been made, and
 - (ii) state the date on which it was made, and
- (b) shall either–
 - (i) state that the dentist has completed vocational training and be accompanied by his vocational training certificate; or
 - (ii) state that the experience or training which the dentist has acquired ought to be regarded as equivalent to vocational training and be accompanied by written details of that experience or training; or
 - (iii) state that the dentist is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3) below and be accompanied by written details in support of that statement.

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

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

- (a) he is registered as a dentist by virtue of section 15(1)(b) of the Dentists Act 1984⁽⁵⁾ (registration of nationals of member States who hold appropriate European diplomas) or is in any other way a person in respect of whom a member State is prohibited by Community law from imposing such a requirement; or
- (b) his name has been included in a dental list in the United Kingdom within the period of five years ending on the date of his application to be included in the dental list; or
- (c) he holds a voluntary vocational training certificate which states that it is in respect of vocational training completed on or after–
 - (i) 1st January 1988 in the case of a certificate issued in England and Wales,
 - (ii) 1st July 1988 in the case of a certificate issued in Scotland, or
 - (iii) 1st August 1989 in the case of a certificate issued in Northern Ireland; or
- (d) he has practised in primary dental care for a period of at least four years in the aggregate in either the community dental service or the armed forces of the Crown and part of that aggregate period must have fallen within four years of the date of his application under regulation 4(2); or

(5) 1984 c. 24.

- (e) in the case of any application made before 1st October 1998, he was, on 1st October 1993, employed as a Senior House Officer or Registrar in a hospital in the United Kingdom or enrolled on a course intended to lead to a Master's degree in dentistry or Membership Diploma in dentistry of any of the Royal Colleges of Surgeons in the United Kingdom.
- (4) In paragraph (3)–
- (a) in sub-paragraph (d), “primary dental care” means care and treatment delivered by the dentist at the first point of contact with the patient, and the “community dental service” means the dental service in Scotland provided under sections 1 and 39(2) of the 1978 Act⁽⁶⁾, in England and Wales provided under section 3(1)(c) and section 5(1)(a) or (1A) of the National Health Service Act 1977⁽⁷⁾ and in Northern Ireland provided under articles 5(1)(c), 9(1)(a) and (1A) of the Health and Personal Social Services (Northern Ireland) Order 1972⁽⁸⁾; and
- (b) in sub-paragraph (e) “Membership Diploma” means any postgraduate dental qualification which is registrable with the General Dental Council.
- (5) An application for a vocational training number shall be granted by the Council if the applicant–
- (a) has had a vocational training certificate issued to him;
- (b) has acquired experience or completed training which ought to be regarded as equivalent to vocational training; or
- (c) is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3) above.
- (6) If the Council determines to grant an application for a vocational training number it shall–
- (a) allocate to the applicant a vocational training number;
- (b) notify him of that number within 10 days of the determination; and
- (c) enter that number against the name of the applicant in a register kept for that purpose.
- (7) If the Council does not allocate a vocational training number to the applicant, it shall within 10 days of that decision, send him a notice to that effect together with a statement setting out the reasons why it has not done so and telling him about his right to appeal to the Appeal Body, the time limit for appeals specified in regulation 4ZC(1) and giving the address to which an appeal, if made, must be sent.

Appeal body for appeals against refusal of vocational training number

4ZB.—(1) The body prescribed for the purposes of section 25(2B) of the 1978 Act⁽⁹⁾ to which appeals may be made in respect of a refusal to include a dental practitioner on a dental list because he has been refused a vocational training number shall be a body of seven persons appointed by the Secretary of State.

- (2) Of the seven persons referred to in paragraph (1)–
- (a) one person shall be appointed as chairman of the body who–
- (i) is an advocate or solicitor in Scotland of at least 10 years standing, or

⁽⁶⁾ Section 39(2) was substituted by the Health and Medicines Act 1988, section 10.

⁽⁷⁾ 1977 c. 49; section 5(1)(a) was amended by, and section 5(1A) was added by, the Health and Medicines Act 1988, section 10.

⁽⁸⁾ S.I. 1972/1265.

⁽⁹⁾ Section 25(2B) was inserted by the National Health Service and Community Care Act 1990 (c. 19), section 40(3).

- (ii) has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990)(10), or
 - (iii) is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least 10 years standing;
 - (b) three shall be dentists nominated by a body appearing to the Secretary of State to be representative of the dental profession; and
 - (c) three shall be dentists nominated by the Secretary of State.
- (3) The Secretary of State shall appoint a person to act as secretary to the Appeal Body.

Procedure on appeal

4ZC.—(1) A dentist whose application for a vocational training number has been refused by the Council may appeal against the refusal by giving to the Appeal Body, within 28 days after he has received notice of the refusal pursuant to regulation 4ZA(7) (or such extended period as the Appeal Body may allow pursuant to paragraph (2)), a written notice of appeal setting out a statement of the facts and contentions on which he intends to rely.

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

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

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

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

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

- (a) one shall be drawn from the dentists appointed under regulation 4ZB(1) following their nomination under regulation 4ZB(2)(b); and
- (b) the other shall be drawn from the dentists appointed under regulation 4ZB(1) following their nomination under regulation 4ZB(2)(c).

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

- (a) set out fully on what grounds the appeal is opposed;
- (b) specify any representations which the Council may desire to submit with regard to the information furnished by the appellant; and
- (c) send to the Appeal Body—
 - (i) a certified copy of the application made by the dentist under regulation 4ZA(1);
 - (ii) a certified copy of the notice to the dentist and the statement of reasons specified in regulation 4ZA(7);
 - (iii) certified copies of any further written correspondence between the applicant and the Council in relation to the application; and
 - (iv) any documentary evidence which the Council may desire to submit.

(8) In connection with an appeal, the appeal committee may require such further particulars from an appellant and such documents in support of his appeal, and may make such inquiries of such persons as it thinks fit.

(9) The appeal committee shall send to the appellant and to the Council (if the appeal is opposed) a copy of any comments made by such persons in reply to those inquiries and shall give the appellant and the Council (if the appeal is opposed) a period of 21 days beginning with the date on which the comments are sent to the respective parties in which to reply to such comments.

(10) The appeal committee shall give notice to the appellant that he may, within such period as is specified in the notice, require the appeal committee to give him an opportunity of appearing before and being heard by the appeal committee.

(11) The appeal committee shall appoint a date, time and place for the consideration of the appeal, and may, or shall if so required by the appellant, hold a hearing for that purpose.

(12) If a hearing is to be held, the appeal committee shall appoint a date, time and place for the hearing and, not less than 21 days before that date, shall send notice to the appellant and to the Council informing them of such date, time and place.

(13) At a hearing by the appeal committee, the appellant may appear and be heard in person or by Counsel or a solicitor or by any other person on his behalf, and the Council may appear and be represented by Counsel or a solicitor or by any duly authorised member or officer.

(14) The appellant may withdraw his appeal at any time.

(15) Where the appellant does not appear at a hearing and is not represented, the appeal committee may, if they are not satisfied that such failure to appear or be represented was due to a reasonable cause, treat any request for a hearing as having been withdrawn.

(16) The proceedings of the appeal committee shall be in private.

(17) The appeal committee shall determine the appeal and shall, within 10 days of that determination, notify the appellant and the Council in writing of their decision and the reasons for it.

(18) Where the Council receives notice that a dentist's appeal has been allowed, it shall allocate a vocational training number to the dentist, notify him of that number within 10 days, and enter that number in its register of vocational training numbers.

(19) Subject to the foregoing paragraphs, the procedure of the Appeal Body and of the appeal committee shall be such as that body and committee respectively think fit.”.

Amendment of regulation 4A of the principal Regulations

5. In regulation 4A(2) of the principal Regulations (Restrictions on the right to be included in a dental list) the word “or” at the end of sub-paragraph (a) shall be omitted, and after sub-paragraph 2(b) there shall be inserted the following paragraph:– “or

(c) if the dentist does not have a vocational training number.”.

Substitution of regulation 31 of the principal Regulations

6. For regulation 31 of the principal Regulations there shall be substituted the following regulation:–

“Service of documents

31. Any notice or other document which is required or authorised by these Regulations (including the terms of service) to be given or sent—

- (a) to a dentist by a Health Board, the Council, the Appeal Body or an appeal committee may be given or sent by delivering it to him or by sending it by post to him at his usual or last-known address;
- (b) to a dentist in connection with an appeal under regulation 4ZC who is represented by a solicitor for the purposes of that appeal, may be given or sent (as an alternative to a method mentioned in paragraph (a)) by delivering it to the solicitor at, or by sending it by post to the solicitor at, his usual or principal address;
- (c) to the Appeal Body or an appeal committee may be given or sent by delivering it to, or by sending it by post to, the secretary of the Appeal Body at the address mentioned in the notice given under regulation 4ZA(7).”.

Amendment to Part I of Schedule 1A to the principal Regulations

7. In Part I of Schedule 1A to the principal Regulations, after paragraph 5, there shall be inserted—

“**5A.** His vocational training number, if he has one.”.

Constituent elements in vocational training

8. After Schedule 1E to the principal Regulations there shall be inserted the new Schedule 1F set out in the Schedule to these Regulations.

St Andrew’s House,
Edinburgh
9th September 1993

Fraser of Carmyllie
Minister of State, Scottish Office

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SCHEDULE

Regulation 8.

“SCHEDULE 1F

Regulation 2(1)

CONSTITUENT ELEMENTS IN VOCATIONAL TRAINING

Overall Aim

To enhance clinical and administrative competence and promote high standards through relevant postgraduate training to meet the needs of unsupervised general dental practice.

1. To enable trainees to practise and improve their skills.
2. To introduce trainees to all aspects of general dental practice.
3. To identify the trainee’s personal strengths and weaknesses and balance these through a planned programme of training.
4. To promote oral health and quality dental care for patients.
5. To further develop and implement peer and self review, and promote awareness of the need for professional education, training and audit as a continuing process.

Objectives

To enable the trainee:

1. To make competent and confident professional decisions including referrals to other services.
2. To demonstrate that he is working within the guidelines regarding the ethics and confidentiality of general dental practice.
3. To implement regulations and guidelines for the delivery of safe practice.
4. To know how to obtain appropriate advice on, and a practical experience of, legal and financial aspects of practice.
5. To demonstrate that he has acquired skill and knowledge in the psychology of patient care and can work successfully as a member of a practice team.
6. To demonstrate the necessary knowledge and skills to organise and manage a practice unsupervised.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (General Dental Services) (Scotland) Regulations 1974 by providing that a Health Board shall not include any dentist in its dental list unless he has a vocational training number. A vocational training number will be allocated to an applicant dentist by a Special Health Board called the Scottish Council for Postgraduate Medical and Dental Education where the Council is satisfied that the applicant has completed a period of vocational training, or has acquired clinical dental experience or training which may be regarded

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as the equivalent of such training, or is within one of the specified categories of exemption from the vocational training requirements. The Regulations provide for a right of appeal and appeal procedures in a case where the Council determines not to allocate a vocational training number. The right of appeal is to the body specified in and set up by these Regulations.