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STATUTORY INSTRUMENTS

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**1995 No. 3092**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (General Dental  
Services) Amendment Regulations 1995**

*Made* - - - - 30th November 1995  
*Laid before Parliament* 30th November 1995  
*Coming into force* - - 21st December 1995

The Secretary of State for Health, in exercise of powers conferred on him by sections 15(1), 35(1), 36(1), 49E and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (General Dental Services) Amendment Regulations 1995 and shall come into force on 21st December 1995.

**Amendment of the National Health Service (General Dental Services) Regulations 1992**

2. The National Health Service (General Dental Services) Regulations 1992(2) shall be amended in accordance with the following provisions of these Regulations.

**Amendment of regulation 2**

3. In regulation 2 (interpretation), in paragraph (1), after the definition of “supply” there shall be inserted—

““suspended by direction of the Tribunal” means suspended as respects the provision of general dental services to patients by a direction of the Tribunal made pursuant to

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(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 5(2); and by the 1990 Act, section 12(1). Section 35(1) was substituted by S.I. 1985/39, article 7(9). Section 36(1) was so numbered by the 1984 Act, Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(10); by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 4; and by the 1990 Act, section 24. Section 49E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 2(1). Section 126(4) was amended by the 1990 Act, section 65(2).

(2) S.I. 1992/66; relevant amending instruments are S.I. 1993/2209 and 1993/3172.

section 49A(2) or section 49B(1) of the Act<sup>(3)</sup> or to any provisions in force in Scotland or Northern Ireland corresponding to those provisions;”,

#### **Amendment of regulation 4**

4. In regulation 4 (dental list), in paragraph (1)(a), for “47(1) or 48(b)” there shall be substituted “47(1), 48(b), 49A(3), 49B(1) or 49D(2)<sup>(4)</sup>”.

#### **Amendment of regulation 5**

5. In regulation 5 (application for inclusion in the dental list), in paragraph (1)(a)(i), for “5A and 11”<sup>(5)</sup> there shall be substituted “5A, 11 and 14”.

#### **Amendment of regulation 8**

6. In regulation 8 (removal from dental list), in paragraph (5)—
- (a) at the end of sub-paragraph (ii), “or” shall be omitted; and
  - (b) at the end of sub-paragraph (iii) there shall be inserted—  
“; or  
(iv) the dentist was suspended by direction of the Tribunal.”.

#### **Amendment of regulation 13**

7.—(1) Regulation 13 (transfer of continuing care and capitation arrangements) shall be amended as follows.

- (2) In paragraph (1)—
- (a) for “paragraph (2)” there shall be substituted “paragraphs (2) and (3)”; and
  - (b) after “ceases to have his name on the dental list” there shall be inserted “or is suspended by direction of the Tribunal”.
- (3) After paragraph (2) there shall be inserted—
- “(3) Where a suspension by direction of the Tribunal ceases to have effect and the suspended dentist continues to be included in the dental list, the FHSA shall make arrangements for any continuing care arrangements or capitation arrangements transferred under paragraph (1) which are still in force (including any such arrangement which has been extended under paragraph 8 or 9 of Schedule 1) to be transferred back to the original dentist, subject to the agreement of the patients concerned.”.

#### **Amendment of regulation 24**

8. In regulation 24 (entitlement to payments), in paragraph (4)—
- (a) at the end of sub-paragraph (f), “or” shall be omitted; and
  - (b) at the end of sub-paragraph (g) there shall be inserted—  
“; or  
(h) during which he is suspended by direction of the Tribunal.”.

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(3) Sections 49A and 49B were inserted by section 2(1) of the National Health Service (Amendment) Act 1995 (c. 31).

(4) Section 49D was also inserted by section 2(1) of the National Health Service (Amendment) Act 1995 (c. 31).

(5) The reference to “5A” was inserted by S.I. 1993/2209, regulation 3(2)(b).

## **Payments to dentists suspended by direction of the Tribunal**

9. After regulation 28, there shall be inserted the following new Part—

### **“PART VA**

#### **PAYMENTS IN CONSEQUENCE OF SUSPENSION BY THE TRIBUNAL**

##### **Payments to dentists suspended by direction of the Tribunal**

**28A.**—(1) The Board shall make payments to any dentist who is suspended by direction of the Tribunal in accordance with the Secretary of State’s determination for the time being in force in relation to such payments.

(2) The Secretary of State shall make the determination in accordance with paragraphs (3) and (4) after consultation with the organisation referred to in regulation 19(1) and it shall be published with the Statement referred to in regulation 19(2).

(3) Subject to paragraph (4), the Secretary of State’s determination shall be such as to secure that, as far as reasonably practicable, and after making adjustments for any reduction in expenses, the suspended dentist receives payments at a rate corresponding to his remuneration by virtue of regulation 19 during the 12 months ending with the direction for suspension by the Tribunal.

(4) The Secretary of State’s determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specified period.

(5) In a case to which section 49B(3) of the Act applies, the determination shall be reduced to take account of any payments which the suspended dentist receives for providing general dental services other than as a principal.

(6) Regulation 19(3) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(7) Regulation 28 shall apply to payments made under this Part as it applies to payments made under Part V.”.

## **Amendment of Schedule 1**

**10.**—(1) Schedule 1 (terms of service for dentists) shall be amended as follows.

(2) In paragraph 8 (duration of a continuing care arrangement)—

(a) at the end of sub-paragraph (2)(b)(i) “or” shall be omitted; and

(b) at the end of sub-paragraph (2)(b)(ii) there shall be inserted—

“; or

(iii) the dentist is suspended by direction of the Tribunal and the FHSA does not within the period of 1 month beginning with the date of the Tribunal’s direction arrange for it to be transferred to another dentist under regulation 13.”.

(3) In paragraph 9 (duration of a capitation arrangement)—

(a) at the end of sub-paragraph (2)(b)(ii) “or” shall be omitted; and

(b) at the end of sub-paragraph (2)(b)(iii) there shall be inserted—

“; or

- (iv) the dentist is suspended by direction of the Tribunal and the FHSA does not within the period of 1 month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 13.”.
- (4) In paragraph 35 (deputies and assistants)—
- (a) in sub-paragraph (10), “47(1) or 48(b)” shall be omitted; and
- (b) after sub-paragraph (10) there shall be inserted the following sub-paragraph—
- “(10A) A dentist shall not employ as a deputy or assistant for the purpose of the provision of general dental services any dentist—
- (a) who, having been disqualified under section 46(2)(b) of the Act (or under any corresponding provision in force in Scotland or Northern Ireland) from inclusion in the dental list of any FHSA (or, in Scotland or Northern Ireland, of a Health Board), is also the subject of a declaration under section 46(2)(c)(6) of the Act (or any corresponding provision in force in Scotland or Northern Ireland) that he is not fit to be engaged in any capacity in the provision of general dental services; or
- (b) who is suspended by direction of the Tribunal, other than is a case falling within section 49B(3) of the Act.”.

#### **Amendment of Schedule 2**

**11.** In Part 1 of Schedule 2 (information and undertaking to be included in an application for inclusion in the dental list), after paragraph 13, there shall be inserted—

“**14.** Whether he has been suspended by the Tribunal.”.

30th November 1995

*Stephen Dorrell*  
Secretary of State for Health

## EXPLANATORY NOTE

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

These Regulations further amend the National Health Service (General Dental Services) Regulations 1992 (S.I. 1992/661) to make provision relating to dentists who have been suspended from the provision of general dental services by the NHS Tribunal or whom the Tribunal has declared not fit to be engaged in any capacity in the provision of those services.

These Regulations also enable Family Health Services Authorities to transfer to another dentist existing arrangements for the care and treatment of the patients of suspended dentists, and to transfer them back if the suspended dentist is reinstated. The Regulations also amend Schedule 1 of the 1992 Regulations to prevent the employment, as an assistant or deputy, of any dentist suspended by the Tribunal who is also subject to a declaration by the Tribunal that he is not fit to be engaged in any capacity in the provision of general dental services.

The Regulations also provide for payments to suspended dentists.