
STATUTORY INSTRUMENTS

1995 No. 3200 (S.238)

NATIONAL HEALTH SERVICE, SCOTLAND

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

Made - - - - *7th December 1995*
Laid before Parliament *11th December 1995*
Coming into force - - *1st January 1996*

The Secretary of State, in exercise of the powers conferred on him by sections 25(1) and (2), 32E, 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 1995 and shall come into force on 1st January 1996.

(2) In these Regulations “the principal Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1974(2).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation) in paragraph (1),

(a) after the definition of “supply” there shall be inserted—

““suspended by direction of the Tribunal” means suspended from the provision of general dental services to patients by a direction of the Tribunal made pursuant to section 32A(2) or section 32B(1) of the Act(3) or under any provisions in force in England and Wales or Northern Ireland corresponding to those provisions;”, and

(1) 1978 c. 29; section 25(2) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), Schedule 2, paragraph 11 and by the National Health Service and Community Care Act 1990 (c. 19), section 40(2) and Schedule 9, paragraph 19(6) and was extended by the 1988 Act, section 17; section 32E was inserted by the National Health Service (Amendment) Act 1995 (c. 31), section 8; section 105(7), which 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, contains provisions relevant to the making of Regulations; section 108(1) contains a definition of “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. 1984/1491, 1985/1552, 1986/1571, 1987/1634, 1990/1772, 1991/569, 1992/641, 1993/2224.

(3) Sections 32A and 32B were inserted by section 8 of the National Health Service (Amendment) Act 1995 (c. 31).

- (b) after the definition of “treatment on referral” there shall be inserted—
““the Tribunal” means the Tribunal constituted under section 29 of the Act;”.

Amendment of regulation 4 of the principal Regulations

3. In regulation 4 (dental list), in paragraph (1)(a), for “25(2A) or 30(1)” there shall be substituted “25(2A), 30(1), 31(b), 32A(3), 32B(1) or 32D(2)(4)”.

Amendment of regulation 6 of the principal Regulations

4. In regulation 6 of the principal Regulations (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 8 of the principal Regulations

5.—(1) Regulation 8 of the principal Regulations (arrangements to complete care and treatment) shall be amended as follows.

- (2) In paragraph (1)—
- (a) for “sub-paragraph (2)” there shall be substituted “paragraphs (2) and (3)”; and
 - (b) after “ceases to have his name included in 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 Health Board 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 34 of the principal Regulations

6. In regulation 34 of the principal Regulations (entitlement to payment)(5) in paragraph (4)—
- (a) at the end of sub-paragraph (g) “or” shall be omitted; and
 - (b) at the end of sub-paragraph (h) there shall be inserted—
“; or
(i) during which he is suspended by direction of the Tribunal.”.

Payments to dentists suspended by direction of the Tribunal

7. After regulation 38, there shall be inserted the following new Part:—

(4) Section 32D was also inserted by section 8 of the National Health Service (Amendment) Act 1995.
(5) Regulation 34 was inserted by [S.I. 1987/1634](#).

“PART IX

PAYMENTS IN CONSEQUENCE OF SUSPENSION BY THE NHS TRIBUNAL

Payments to dentists suspended by direction of the Tribunal

39.—(1) The Health 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’s determination shall be made in accordance with paragraphs (3) and (4) after consultation with the organisations referred to in regulation 26(1) and shall be published with the Statement referred to in regulation 26(1).

(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 26 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) Regulation 26(2) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(6) Regulation 38 shall apply to payments made under this Part as it applies to payments made under Part VIII.”.

Amendment of Schedule 1 to the principal Regulations

8.—(1) Schedule 1 to the principal Regulations (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 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 8.”.

(3) In paragraph 9 (duration and extension of 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 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 8.”.

(4) In paragraph 37 (deputies and assistants)—

- (a) in sub-paragraph (10), the words after “Health Board” shall be omitted and there shall be substituted the words “under section 25(2A) of the National Health Service (Scotland) Act 1978”(6); 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 29(3)(b) of the Act (or under any corresponding provision in force in England and Wales or Northern Ireland) from inclusion in the dental list of any Health Board (or, in England and Wales of an FHSA or in Northern Ireland of a Health and Social Services Board) is also the subject of a declaration under section 29(3)(c)(7) of the Act (or any corresponding provision in force in England and Wales 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 in a case falling within section 32B(3) of the Act.”.

Amendment of Schedule 1A to the principal Regulations

9. In Part 1 of Schedule 1A to the principal Regulations (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.”.

St Andrew’s House,
Edinburgh
7th December 1995

James Douglas-Hamilton
Minister of State, Scottish Office

(6) Sub-section (2A) of section 25 was inserted by S.I. 1981/432, article 4(3)(b).

(7) Section 29(3)(c) was inserted by section 7 of the National Health Service (Amendment) Act 1995.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (General Dental Services) (Scotland) Regulations 1974 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 enable Health Boards 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 1974 Regulations to prevent the employment, as an assistant or deputy, of any dentist suspended by the Tribunal or 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.