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STATUTORY INSTRUMENTS

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**1996 No. 704**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

**The National Health Service (General Dental  
Services) Amendment Regulations 1996**

<i>Made</i>	- - - -	<i>11th March 1996</i>
<i>Laid before Parliament</i>		<i>11th March 1996</i>
<i>Coming into force</i>	- -	<i>1st April 1996</i>

The Secretary of State for Health, in exercise of powers conferred on him by sections 15(1), 35(1), 36(1), 37(1)(a), (1A) and (1B), and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, after consultation, in accordance with section 37(1B) of that Act with organisations appearing to him to be representative of persons providing general dental services hereby makes the following Regulations:—

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (General Dental Services) Amendment Regulations 1996 and shall come into force on 1st April 1996.

**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.

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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); by the 1990 Act, section 12(1) and, from 1st April 1996, by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 6. Section 35(1) was substituted by S.I. 1985/39, article 7(9) and amended from 1st April 1966 by the 1995 Act, Schedule 1, paragraph 24. 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) (“the 1988 Act”) Schedule 2, paragraph 4; by the 1990 Act section 24; and, from the 1st April 1996, by the 1995 Act, Schedule 1, paragraph 25(a). Section 37(1) (so numbered by the 1988 Act, section 12(2)) was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”, section 1 and Schedule 1, paragraph 50; modified by section 12(1) of the 1988 Act and amended by that Act, Schedule 3; and amended by the 1995 Act, Schedule 1, paragraph 26. Section 37(1A) and section 37(1B) were inserted by the 1988 Act, section 12(3)(a). Section 43 was amended by the 1980 Act, sections 1 and 21(2) and Schedule 1, paragraph 55; by S.I. 1985/39, article 7(15); by the 1990 Act, Schedule 9, paragraph 18(2); and, from 1st April 1996, by the 1995 Act, Schedule 1, paragraph 31. Section 126(4) was amended by the 1990 Act, section 65(2).
- (2) S.I. 1992/661; the relevant amending instrument is S.I. 1995/3092.

## PART I

### APPEALS FROM DECISIONS OF THE DENTAL PRACTICE BOARD

#### Amendment of regulation 29

3. In regulation 29 (prior approval - patterns of treatment), in paragraph (3), for “regulation 19 of the National Health Service (Service Committees and Tribunal) Regulations 1992” there shall be substituted “regulation 30A”.

#### Appeals from decisions of the Board

4.—(1) After regulation 30, there shall be inserted the following new Part —

#### “PART VIa

### APPEALS FROM DECISIONS OF THE DENTAL PRACTICE BOARD

#### Appeals from decisions of the Board

30A.—(1) Where —

- (a) any person is aggrieved by a decision of the Board concerning the treatment or intended treatment of a patient as part of general dental services; or
- (b) any dentist is aggrieved by a decision of the Board concerning fees payable to him in respect of his provision or intended provision of general dental services,

that person or, as the case may be, that dentist may, in accordance with paragraphs (3) and (4), appeal against the Board’s decision to the Health Authority administering the arrangements under which the services were, or were intended to be, provided.

(2) Any dentist who is aggrieved by a decision of the Board under regulation 29 may, in accordance with paragraphs (3) and (4), appeal against that decision —

- (a) where the name of the dentist is included in the dental list of only one Health Authority, to that Health Authority;
- (b) where the name of the dentist is included in the dental list of more than one Health Authority, to any such Health Authority.

(3) An appeal under paragraph (1) or (2) shall be brought by giving notice of appeal in writing to the Health Authority before the end of the period of 30 days beginning with the date on which the decision of the Board was sent to the aggrieved person.

(4) A notice of appeal under paragraph (3) shall —

- (a) contain a concise statement of the facts and contentions upon which the appellant intends to rely; and
- (b) be given by or with the authority of the aggrieved person, unless —
  - (i) the aggrieved person is, by reason of age, sickness or other infirmity, incapable of acting, in which case notice of appeal may be given by some other person on his behalf although without his authority;
  - (ii) the appeal is brought under paragraph (1)(b) and concerns the fees of a dentist who has died, in which case notice of appeal may be given by the personal representatives of that dentist.

(5) The Health Authority shall, before the end of the period of 30 days beginning with the date on which it received a notice of appeal, request from the Board a written statement of the reasons for its decision, and the Board shall, before the end of the period of 30 days beginning with the date on which the request was sent, send such a statement to the Health Authority.

(6) The Health Authority shall consider the notice of appeal and the Board's statement and —

- (a) where, after consulting the Local Dental Committee, the Health Authority is of the opinion that the notice discloses no reasonable grounds of appeal, or that the appeal is otherwise vexatious or frivolous, it may dismiss it forthwith;
- (b) where the appeal is against a refusal of the Board to approve a claim for remuneration or an estimate on grounds that the services to which the claim or estimate relates cannot be provided as part of general dental services, the Health Authority shall refer the notice of appeal and the Board's statement to the Secretary of State, and shall inform the parties in writing that it has done so;
- (c) where —
  - (i) an appeal is brought under paragraph (1)(b) against a decision of the Board concerning a dentist's fees, and
  - (ii) the Board has certified in its statement under paragraph (5) that it has authorised those fees and that they were the fees or maximum fees prescribed by Determination I of the Statement of Dental Remuneration for the services provided or to be provided,

the Health Authority shall dismiss the appeal forthwith unless it is of the opinion that the appeal involves a dispute as to the item or sub-item of treatment in that Determination applicable to the services provided or intended to be provided;

- (d) except where an appeal is dismissed or referred in accordance with the preceding provisions of this paragraph, the Health Authority shall, before the end of the period of 30 days beginning with the date on which the Board's statement under paragraph (5) was sent, appoint, in accordance with paragraph (7) —
  - (i) where the appeal is brought under paragraph (2), three dentists,
  - (ii) in any other case, two dentists,as referees to determine the appeal.

(7) The dentists appointed for the purposes of paragraph (6)(d) shall be engaged in the provision of general dental services; and one of them shall be selected from a panel of such dentists who have been nominated to the panel by the Local Dental Committee or by the Local Dental Committee constituted for another area.

(8) Where the Health Authority dismisses an appeal under sub-paragraph (a) or (c) of paragraph (6) it shall give notice in writing to the person who brought the appeal and to the Board that the appeal has been dismissed and, where the appeal is dismissed under sub-paragraph (c) of that paragraph, the Health Authority shall include with the notice to the appellant a copy of the Board's statement under paragraph (5) and a statement of its reasons for dismissing the appeal.

(9) Where an appeal is referred to the Secretary of State under paragraph (6)(b), he shall determine it in such manner as he thinks fit, and shall give notice of his decision, and of the reasons for it, to the appellant, the Board and the Health Authority.

(10) Where referees are appointed under paragraph (6)(d) they shall, subject to paragraph (12), hear the representations of the parties on a date appointed by the Health Authority for that purpose, and the Health Authority shall —

- (a) not less than 14 days before that date (or within such shorter period as the parties may agree), give notice in writing to the parties of the date, time and place of the hearing and of the names of the referees; and
- (b) not less than seven days before that date (or within such shorter period as the parties may agree), provide the referees and the appellant with a copy of that Board's statement and the notice of appeal.

(11) A party to an appeal which is to be determined by referees following a hearing shall not be entitled to rely upon any facts or contentions not contained in the notice of appeal or the statement of the Board unless —

- (a) that party gives notice in writing of those facts or contentions to the referees and to the other party to the appeal at least seven days before the date of hearing; or
- (b) the referees consent (either before or during the hearing).

(12) Where both parties to an appeal have given written notice to the Health Authority that they do not intend to make representations at a hearing, the Health Authority shall inform the referees accordingly, and the referees shall determine the appeal without a hearing.

(13) The referees shall, before the end of the period of seven days beginning with the date on which they determine an appeal, give notice in writing to the Health Authority of their decision and of the reasons for it, and the Health Authority shall, before the end of the period of 14 days beginning with the date on which it receives the notice, send copies of it to the parties.

(14) For the purposes of this regulation, the parties to an appeal are the Board and the appellant, that is to say the aggrieved person or, where another person has given notice of appeal in accordance with paragraph (4), that other person”.

(2) Regulation 19 of the National Health Service (Service Committees and Tribunal Regulations 1992(3) (“the old regulation”) is hereby revoked.

(3) Appeals brought under regulation 19 of the old regulation before 1st April 1996 shall be treated on and after that date as brought under regulation 30A of the National Health Service (General Dental Services) Regulations 1992(4) (“the new regulation”) except that paragraph (7) of the old regulation, instead of paragraph (7) of the new regulation, shall apply to dentists appointed as referees under paragraph (6)(d).

## PART II

### COMPLAINTS

#### Complaints

5. In Schedule 1 (terms of service), after paragraph 31 there shall be inserted —

#### “Complaints

**31A.**—(1) Subject to sub-paragraph (2), a dentist shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 31B referred to as a “practice based complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The practice based complaints procedure to be established by a dentist may be such that it also deals with complaints made in relation to one or more other dentists.

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(3) S.I. 1992/664

(4) S.I. 1992/661.

(3) A practice based complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the dentist's provision of general dental services and within the responsibility or control of —

- (a) the dentist;
- (b) any other dentist either employed by him or engaged as a deputy;
- (c) a former partner of the dentist;
- (d) any employee of the dentist other than one falling within paragraph (b);

and in this paragraph and paragraph 31B, references to complaints are to complaints falling within this sub-paragraph.

(4) A complaint may be made on behalf of a patient or former patient with his consent, or—

- (a) where the patient is a child under 16 —
  - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child, or
  - (ii) where the child is in the care of an authority to whose care he has been committed under the provisions of the Children Act 1989<sup>(5)</sup> or in the care of a voluntary organisation, by that authority or voluntary organisation; or
- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.

(5) Where a patient has died a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in paragraph (a)(ii) of sub-paragraph (4), by the authority or voluntary organisation.

(6) A practice based complaints procedure shall comply with the following requirements —

- (a) the dentist shall specify a person (who need not be connected with the dentist's practice and who in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
- (b) all complaints shall be —
  - (i) recorded in writing,
  - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was received by the person specified under paragraph (a), or where that is not possible as soon as reasonably practicable, and
  - (iii) properly investigated;
- (c) within the period of 10 days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was received by the person specified under paragraph (a) or, where that is not possible as soon as reasonably practicable, the complainant shall be given a written summary of the investigation and its conclusions;
- (d) where the investigation of the complaint requires consideration of the patient's dental records, the person specified under paragraph (a) shall inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the dentist or a partner, a deputy or an employee of the dentist; and

(e) the dentist shall keep a record of all complaints and copies of all correspondence relating to complaints, but such records shall be kept separate from patients' dental records.

(7) A dentist shall inform his patients about the practice based complaints procedure which he operates and give the name (or title) and address of the person specified under paragraph (6)(a).

**31B.**—(1) A dentist shall co-operate with any investigation of a complaint by the Health Authority in accordance with the procedures which it operates in accordance with directions given under section 17 of the Act(a), whether the investigation follows one under the practice based complaints procedure or not.

(2) The co-operation required by sub-paragraph (1) includes —

- (a) answering questions reasonably put to the dentist by the Health Authority;
- (b) providing any information relating to the complaint reasonably required by the Health Authority; and
- (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the dentist's presence at the meeting is reasonably required by the Health Authority.

### **Return**

**31C.**—(1) A dentist whose name is included in the dental list shall provide to the Health Authority by 30th June each year a return stating the number of complaints received in accordance with paragraph 31A in respect of the period of 12 months ending on 31st March of that year.

(2) In the case of a dentist who practises in partnership with one or more other dentists whose names are included in the dental list, the information referred to in sub-paragraph (1) shall be provided in respect of the partnership as a whole instead of by each dentist in the partnership individually”.

## **PART III**

### **MISCELLANEOUS**

#### **Amendment of regulations 22 and 28**

**6.** In each of regulation 22 (recovery of overpayments) and 28 (overpayments), in paragraph (1) (b) for “regulation 7” these shall be substituted “regulation 5(1)(**6**)”.

#### **Amendment of Schedule 1**

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

(2) In paragraph 2 (incorporation of provisions of Regulations), in paragraph (b)(i) for “dental service committee, the joint services committee and the denture conciliation committee” there shall be substituted “dental discipline committee and the joint discipline committee”.

(3) In paragraph 27 (completion of an estimate)—

- (a) in sub-paragraph (1), for “(2), (3)” there shall be substituted “(2)”; and
- (b) sub-paragraph (3) shall be omitted.

(4) For paragraph 31 there shall be substituted —

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(6) Section 17 is substituted from 1st April, 1996 by the [Health Authorities Act \(c. 17\)](#), Schedule 1 paragraph 8.

**“Information about NHS charges**

**31.** A dentist shall display in a prominent position at the practice premises such information about charges for general dental services as the Health Authority may approve in accordance with directions given by the Secretary of State under section 17(7) of the Act”.

(5) In paragraph 35 (deputies and assistants), in sub-paragraph (10A)(a)(8), for “(or in Scotland or Northern Ireland, of a Health Board)” there shall be substituted “(or in Scotland, of a Health Board, or in Northern Ireland, of a Health and Social Services Board)”.

Signed by authority of the Secretary of State for Health

11th March 1996

*Gerald Malone*  
Minister of State (Department of Health)

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(7) Section 17 is substituted from 1st April, 1996 by the [Health Authorities Act \(c. 17\)](#), Schedule 1, paragraph 8.

(8) Sub-paragraph (10A) was inserted by [S.I. 1995/3092](#).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## 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) (“the 1992 Regulations”).

Part I includes in the 1992 Regulations what was formerly regulation 19 of the National Health Service (Service Committees and Tribunal) Regulations 1992 (S.I. 1992/664) (“the Service Committees and Tribunal Regulations”).

Part II amends dentists' terms of service contained in Schedule 1 to the 1992 Regulations, to require dentists to establish and operate a complaints procedure within their practice.

Part III makes various amendments consequential upon amendments to the Service Committees and Tribunal Regulations, and makes minor amendments to the terms of service in Schedule 1 regarding computerised estimate forms, information to be displayed in practice premises, and the correct name of the Northern Ireland equivalent of a Health Authority.