

EXPLANATORY MEMORANDUM TO
THE GENERAL DENTAL SERVICES AND PERSONAL DENTAL SERVICES
TRANSITIONAL PROVISIONS ORDER 2005

2005 No. 3435

1. This explanatory memorandum has been prepared by the Department of Health and is laid before the House of Commons by Command of Her Majesty.
2. **Description**
 - 2.1 The Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”) provides the legislative framework for the establishment of primary dental services. It is intended that the new contracting arrangements will underpin modernised, locally sensitive primary dental services properly integrated with the rest of the NHS.
 - 2.2 The National Health Service (General Dental Services Contracts) Regulations 2005 (“the GDS Regulations”) replace the NHS (General Dental Services) Regulations 1992 (SI 1992/661) (“the 1992 Regulations”) which provide for general dental services under sections 35 of the National Health Service Act 1977 (“the 1977 Act”). The GDS Regulations were made on 6 December 2005.
 - 2.3 The National Health Service (Personal Dental Services Agreements) Regulations 2005 (“the PDS Regulations”) replace the PDS piloting regime under the National Health Service (Primary Care) Act 1997 (“the 1997 Act”). The PDS Regulations were made on 7 December 2005. The policy intention is to “mainstream” the successful piloting of local contracts as a permanent part of NHS contracting.
 - 2.4 Contracts made under these Regulations are for the provision of primary dental services.
 - 2.5 The General Dental Services and Personal Dental Services Transitional Provisions Order 2005 (“the Transitional Order 2005”) sets out the arrangements to be put in place to move existing contractors who provide services under section 35 of the 1977 Act and PDS pilot scheme providers who provide personal dental services under pilot scheme agreements under the 1997 Act to provision of primary dental services under GDS contracts and PDS agreements.
 - 2.6 Part 2 of the Order makes provisions about the conditions and entitlement of dentists providing general dental services under section 35 of the 1977 Act and contractors providing services under a PDS pilot agreement to a GDS contract from 1 April 2006.
 - 2.7 Part 3 makes similar provisions about conditions and entitlements for dentists providing general dental services under section 35 of the 1977 Act and contractors providing services under a PDS pilot agreement to a PDS agreement from 1 April

2006.

- 2.8 Part 4 includes miscellaneous provisions consequent upon the ending of general dental services under section 35 of the 1977 Act (s172(2) of the 2003 Act) and abolition of PDS piloting (s178 of the 2003 Act).
- 2.9 A further order will be made early in 2006 to provide for other consequential, transitional and savings needed for April 2006.
- 2.10 To complete the reform package the regulations mentioned paragraphs 2.13 and 2.14 will be made shortly.
- 2.11 The National Health Service (Performers Lists) Amendment Regulations 2005, to be laid later in December, replace arrangements for the inclusion of principal dentists in dental lists under regulations 4 of the 1992 Regulations and the listing of assistants in supplementary lists under the National Health Service (General Dental Services Supplementary List) Amendment Regulations 2003 (SI 2003/250).
- 2.12 The Functions of Primary Care Trusts (Dental Public Health) (England) Regulations 2005 made under section 16CB, inserted by section 171 of the 2003 Act give PCTs new functions in relation to dental public health and complete the regulatory reform package in relation to primary dental services.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None

4. Legislative Background

- 4.1 The 2003 Act provides for new arrangements to be made for the provision of primary dental services and amends the 1977 Act. The Transitional Order 2005 is made under sections 173, 195, 200 and 201 of the 2003 Act.
- 4.2 The GDS Regulations and PDS Regulations rely for activity monitoring purposes on the banded charging system. They come into force on 1 January 2006 to allow a three month preparatory period for contractors and Primary Care Trusts to agree contracts for April 2006. The Transitional Order 2005 is to come into force 3 January (first working day) 2006 to reflect this timetable.

5. Extent

- 5.1 This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 PDS piloting under the National Health Service (Primary Care) Act 1997 has proved popular with dentists and their patients. Under these pilot arrangements, dentists are better able to use their professional skills to relate dental services more closely to patients' oral health needs. Patients with lower treatment needs are seen less frequently and courses of treatment become simpler. Evidence from over 5 years of piloting PDS shows at least a 10% reduction in dentists' overall activity (courses of treatment and individual items of treatment) can be expected with an improvement in clinical effectiveness, cost effectiveness and appropriateness of treatment provided.
- 7.2 By adopting the new ways of working demonstrated in the PDS pilots, dentists are able to undertake fewer courses of treatment and yet see greater numbers of patients. This has the potential to improve the working lives of dentists and their teams and also improve access to NHS dental services.
- 7.3 Building on the experience of PDS piloting, the GDS Regulations and PDS Regulations will enable PCTs to enter into contracts for the provision of primary dental services. Remuneration of providers under the contract will be by annual contract value as under the PDS piloting arrangements.
- 7.4 The GDS Regulations and PDS Regulations will provide for a contract: general dental services (GDS) contracts and an agreement: personal dental services (PDS) agreements. Under a GDS Contract, the contractor will be required to provide a range of dental services set out in regulation 14 of the GDS Regulations 2005. New PDS agreements will be the 'permanent' version of PDS piloting and provide for greater flexibility in the services to be provided. Additionally, a wider range of potential providers are permitted to hold contracts including healthcare professionals other than dentists. PDS agreements will, for example, be used for commissioning specialised services such as orthodontics.
- 7.5 The current general dental services system of item of service fees will cease on implementation of these local contracts on 1 April 2006. A new system of patient charges, not related to the fees for the provision of items of treatment, is therefore needed. The change in charging structure is also provided for in the 2003 Act which implements all these changes by amending the provisions 1977 Act.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies. A full Regulatory Impact Assessment has been prepared in relation to The National Health Service (General Dental Services Contracts) Regulations 2005 (S.I, 2005/3361) and The National Health Service (Personal Dental Services Agreements) Regulations 2005 (S.I. 2005/3373).

9. Contact

Chris Audrey
Department of Health
New King's Beam House
20 Upper Ground

London SE1 9BW
Tel 020 7633 4149
GTN 396 34149
Chris.Audrey@dh.gsi.gov.uk

can answer any queries regarding the instrument.