
WELSH STATUTORY INSTRUMENTS

2003 No. 138 (W.10)

NATIONAL HEALTH SERVICE, WALES

**The National Health Service (General Dental Services) and
(Dental Charges) (Amendment) (Wales) Regulations 2003**

Made - - - - 28th January 2003

Coming into force - - 1st February 2003

The National Assembly for Wales in exercise of the powers conferred upon it by sections 15(1), 35(1), 36(1), 79(1), 79A and 126(4) of the National Health Service Act 1977(1) hereby makes the following Regulations:

Citation, commencement, interpretation and application

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) and (Dental Charges) (Amendment) (Wales) Regulations 2003 and shall come into force on 1st February 2003.

(2) In these Regulations —

“the 1992 Regulations” (“*Rheoliadau 1992*”) means the National Health Service (General Dental Services) Regulations 1992(2);

“the 1989 Regulations” (“*Rheoliadau 1989*”) means the National Health Service (Dental Charges) Regulations 1989(3).

(3) These Regulations shall apply to Wales only.

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- (1) 1977 c. 49 (“the 1977 Act”); 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 1990 Act, section 12(1)(b) and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), section 2(1) and Schedule 1, paragraph 6. Section 35(1) was substituted by S.I. 1985/39, article 7(9), and amended by the 1995 Act, section 2(1) and Schedule 1, paragraph 24. Section 36(1) was so numbered by the Health and Social Security Act 1984 (c. 48), section 5(4) and Schedule 3, paragraph 5 and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1984/39, article 7(10); by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 25 and Schedule 2, paragraph 4; by the 1990 Act, section 24 and by the 1995 Act, section 2 and Schedule 1, paragraph 25(a). Sections 79(1) and 79A were inserted by the 1988 Act, section 11(3). Section 126(4) was amended by the 1990 Act, section 65(2) and by the Health Act 1999 (c. 9) (“the 1999 Act”), section 65(1) and Schedule 4, paragraph 37. The functions of the Secretary of State under sections 15(1), 35(1), 36(1), 79(1), 79A and 126(4) of the 1977 Act are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, article 2, as amended by section 66(5) of the 1999 Act.
- (2) S.I. 1992/661; relevant amending instruments are S.I. 1992/1509 and 2001/2706 and 4000.
- (3) S.I. 1989/394; relevant amending instruments are S.I. 1998/2221 and 2001/1359.

Amendment of regulation 9 of the 1992 Regulations

2. In regulation 9 of the 1992 Regulations (removal from dental list on grounds of age) —
- (a) for paragraph (1) substitute —

“(1) A Health Authority shall, on 1st April in 2003 and in each successive year thereafter, remove from the dental list the name of any dentist included in the list who has attained the age of 70 years, during the period of 12 months ending on the 1st April in that year.”;
 - (b) omit paragraph (2);
 - (c) for the words “paragraph (1) or (2)” in each place where they appear in paragraphs (3) and (4) substitute the words “paragraph (1)”.

Amendment of Schedule 1 to the 1992 Regulations

3. In Schedule 1 to the 1992 Regulations (terms of service for dentists), for paragraph 17 (occasional treatment) substitute —

“17.—(1) Whether or not a patient has entered into a continuing care arrangement or capitation arrangement with another dentist, a dentist who is not acting on behalf of that dentist may provide any of the items listed in sub-paragraph (2) as occasional treatment.

- (2) For the purposes of sub-paragraph (1) the listed items are —
- (a) the assessment of, and giving of advice to, a patient,
 - (b) the issuing of a prescription,
 - (c) a radiographic examination and radiological report,
 - (d) the dressing of deciduous or permanent teeth and other palliative treatment,
 - (e) the repair and fixing of inlays, crowns and bridges,
 - (f) the extraction of deciduous or permanent teeth,
 - (g) the provision of post-operative care,
 - (h) the provision of sedation,
 - (i) the provision, replacement, repair or alteration of dentures or other dental appliances,
 - (j) urgent treatment for acute conditions of the gingivae or oral mucosa, including treatment for pericoronitis or for ulcers and herpetic lesions, and any necessary oral hygiene instruction in connection with such treatment,
 - (k) any treatment immediately necessary as a result of trauma,
 - (l) domiciliary visits and recalled attendance,
 - (m) conservative treatment of permanent or retained deciduous teeth, by way of fillings or root fillings, and
 - (n) in respect of patients under 18, conservative treatment of deciduous teeth.

(3) Where the dentist, due to any cause beyond his control, is unable to complete a course of occasional treatment which he has commenced, the dentist shall forthwith notify the Board in writing of the extent of the occasional treatment he has provided and the reason why he is unable to complete the remainder of the treatment.

(4) Subject to sub-paragraphs (5) and (6), where a dentist has provided conservative treatment by way of any filling or root filling in accordance with sub-paragraph 2(m), the dentist shall repair or replace the filling in question at no charge to the patient.

- (5) A dentist shall not be under an obligation to repair or replace any filling under sub-paragraph 2(m) where —
- (a) within 12 months of the date on which the filling was provided —
 - (i) a dentist has provided private treatment, or
 - (ii) another dentist has provided occasional treatment otherwise than of a temporary nature,on the tooth in respect of which the filling was provided;
 - (b) the dentist advised the patient at the time of the filling and indicated on the patient record —
 - (i) that the filling was intended to be temporary in nature; or
 - (ii) that, in the dentist’s opinion, a different form of filling was more appropriate but, notwithstanding that advice, the patient insisted on the filling which was provided;
 - (c) in the opinion of the dentist, the condition of the tooth in respect of which the filling was provided is such that the filling cannot satisfactorily be repaired or replaced and different treatment is now required; or
 - (d) the repair or replacement is required as a result of trauma.
- (6) The obligation to repair or replace any filling under sub-paragraph 2(m) shall cease 12 months after the date on which the filling was provided.”.

Amendment of regulation 3 of the 1989 Regulations

4. In regulation 3 of the 1989 Regulations (charges for other dental services) —
- (a) in paragraph 2(e), for “or 13(2)” substitute “, 13(2) or 17(4)” ; and
 - (b) for paragraph 2 (f) substitute —
 - “(f) Subject to regulation 5A, the clinical examination and any report on that examination, and the provision of an assessment and advice in accordance with paragraph 17(2)(a) of Schedule 1 to the National Health Service (General Dental Services) Regulations 1992 where, on the day upon which the examination is performed or the assessment is made, the patient —
 - (i) is under the age of 25 years; or
 - (ii) has attained the age of 60 years.” .

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4)

28th January 2003

D. Elis-Thomas
The Presiding Officer of the National Assembly

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

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”) and the National Health Service (Dental Charges) Regulations 1989 (S.I. 1989/394) (“the 1989 Regulations”).

The 1992 Regulations regulate the terms on which general dental services are provided under the National Health Service Act 1977. The 1989 Regulations contain provisions as to the charges made for general dental services.

Regulation 2 amends regulation 9 of the 1992 Regulations which specifies the age upon which a Health Authority must remove a dentist from its dental list on the grounds that the dentist has attained the age of 65 years. The amendment increases the age specified to 70 years.

Regulation 3 amends Schedule 2 to the 1992 Regulations, which sets out the terms of service that apply to dentists by substituting a new paragraph 17 to that Schedule. The new paragraph enables a greater range of occasional treatments to be provided under the general dental services by removing the distinction between the treatment available to patients who are not registered and those occasional patients registered with a dentist elsewhere. It also provides that where a dentist provides a filling or a root filling under occasional treatment, with certain exceptions, the dentist is obliged to repair or replace such a filling at no charge to the patient up to 12 months after it was provided.

Regulation 4 further amends the 1989 Regulations to provide that no charge shall be made to a patient where the dentist repairs or replaces a filling in accordance with paragraph 17(4) of Schedule 1 to the 1992 Regulations (repair or replacement of a filling provided by a dentist as occasional treatment). It also extends regulation 3(2)(f) to provide that subject to a declaration of entitlement being made in the form prescribed, persons under the age of 25 years and those who have attained the age of 60 years will be entitled to receive, free of charge, an assessment carried out in accordance with paragraph 17(2)(a) of Schedule 1.