
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 208

The National Health Service (General Dental Services) (Scotland) Regulations 2010

**PART I
GENERAL**

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Dental Services) (Scotland) Regulations 2010 and come into force on 2nd July 2010.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“the 1997 Act” means the National Health Service (Primary Care) Act 1997⁽¹⁾;

“the 1996 Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1996⁽²⁾;

“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act⁽³⁾;

“area” means in relation to a Health Board the area for which the Health Board is constituted;

“area dental committee” means the committee of that name which is recognised by a Health Board in relation to its area under section 9 of the Act⁽⁴⁾;

“assistant” means (i) any dentist employed as an assistant dentist by a contractor either whole-time or part-time under a contract of service, for the purpose of assisting that contractor with the provision of general dental services or (ii) any dentist undertaking vocational training under the supervision of a salaried dentist and who is employed under a contract of service with a Health Board;

“associateship agreement” means an agreement between dentists or a dentist and a body corporate named in sub-part A of the first part of a dental list—

(a) to which there are 2 parties, who are not parties to a partnership agreement, relating to the provision of general dental services, and

(1) 1997 c.46.

(2) S.I. 1996/177, amended by S.I. 1996/841 and 2060; 1998/1663, 2224 and 2259; 1999/724 and 2005/2011; and by S.S.I. 1999/51; 2000/188, 352; 394; 2001/57, 368; 2002/99, 188, 192, 268; 2003/131, 422; 2004/37, 292; 2005/95; 2006/137, 321; 2007/191, 422; 2009/96, 183 and 2010/33.

(3) Section 10 was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 66(2) and Schedule 10; the 1999 Act section 65(1) and Schedule 4, paragraph 44; and by the 2005 Act, schedule 2, paragraph 2(4).

(4) Section 9 was amended by the 1990 Act, section 29 and the 1999 Act, section 65 and Schedule 4, paragraph 43.

- (b) whereby one party is liable to provide, for financial consideration, the use of some or all premises and facilities for the provision of general dental services by the other party;
- “body corporate” means a body corporate entitled by virtue of section 43 of the Dentists Act 1984⁽⁵⁾ to carry on the business of dentistry;
- “capitation arrangement” means an arrangement between a contractor and a patient whereby the contractor provides care and treatment in accordance with paragraph 5 of Schedule 1;
- “care and treatment” means all proper and necessary care and treatment which a dentist usually undertakes for a patient and which the patient is willing to undergo, including advice, planning of treatment and preventative care;
- “condition for disqualification” means the first, second or third condition for disqualification in section 29 of the Act⁽⁶⁾;
- “conditional disqualification” has the same meaning as in section 29C(1) of the Act⁽⁷⁾ and includes a decision under provisions in force in England, Wales or Northern Ireland corresponding (whether or not exactly) to a conditional disqualification, and “conditionally disqualified” shall be construed accordingly;
- “continuing care arrangement” means an arrangement between a contractor and a patient whereby the contractor provides care and treatment in accordance with paragraph 4 of Schedule 1;
- “contractor” means a person who has undertaken to provide general dental services and whose name is included in sub-part A of the first part of a Health Board’s dental list;
- “corresponding decision” has the same meaning as in section 32D of the Act;
- “dental care professional” means a person registered in the dental care professionals register;
- “dental care professionals register” is the register established by section 36B of the Dentists Act 1984⁽⁸⁾;
- “dental hygienist” means a person in the profession pursued by dental hygienists who is registered in the dental care professionals register;
- “dental list” has the meaning given to it by regulation 4;
- “dental nurse” means a person in the profession pursued by dental nurses who is registered in the dental care professionals register;
- “dental officer” means a dentist in the service of the SDPB;
- “dental student” means a person studying for a qualification in dentistry, dental therapy or dental hygiene;
- “dental surgery” means any part of the practice premises where care and treatment is provided;
- “dental therapist” means a person in the profession pursued by dental therapists who is registered in the dental care professionals register;
- “dentist” means a dental practitioner registered in the register of dentists;
- “deputy” means a dentist who acts on behalf of another dentist, otherwise than in the capacity of an assistant, for the purpose of providing general dental services;
- “director” means a director of a body corporate or a member of the body of persons controlling a body corporate;

(5) 1984 (c.24); section 43 was substituted by S.I. 2005/2011.

(6) Section 29 was substituted by the 1999 Act, section 58, and amended by the Community Care and Health (Scotland) Act 2002 (asp 5), (“the 2002 Act”) schedule 2, paragraph 2(4); the 2004 Act, section 5 and by the 2005 Act, section 26 and schedule 2, paragraph 2(10).

(7) Section 29C(1) was inserted by the 1999 Act, section 58.

(8) Section 36B was inserted by S.I. 2005/2011, and amended by S.I. 2007/3101.

“disqualification” means disqualification by the Tribunal (or a corresponding decision under provisions in force in England, Wales or Northern Ireland corresponding whether or not exactly to disqualification), but does not include conditional disqualification, and “disqualified” shall be construed accordingly;

“an emergency” means the circumstances set out in paragraph 6(2) of Schedule 1 in which a patient requires prompt care and treatment;

“emergency dental services” means treatment which is provided in terms of arrangements made under regulation 19;

“enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

“enhanced criminal record certificate” has the meaning given in section 113B of the Police Act 1997⁽⁹⁾;

“equivalent body” means—

- (a) in England, a Primary Care Trust;
 - (b) in Wales, a Local Health Board;
 - (c) in Northern Ireland, a Health and Social Services Board;
 - (d) in relation to any time prior to 1st October 2002, a Health Authority in England; or
 - (e) in relation to any time prior to 1st April 2003, a Health Authority in Wales,
- or any successor body;

“equivalent list” means a list kept by an equivalent body;

“estimate” means a form supplied by the Health Board, or a form to like effect, completed by a dentist and submitted to the SDPB in accordance with paragraph 28 of Schedule 1 for the purpose of obtaining prior approval of care and treatment;

“fraud” means matters which it is the function of the Agency to prevent, detect or investigate by virtue of article 2(1) of the National Health Service (Functions of the Common Services Agency) Order 2008⁽¹⁰⁾;

“general dental services” has the meaning given in section 25(1) of the Act;

“Health Board” means a Health Board constituted for any area under section 2(1)(a) of the Act⁽¹¹⁾;

“health centre” means any premises at which general dental services are provided by salaried dentists;

“in writing” does not (except where otherwise stated) include transmission by electronic means;

“licensing or regulatory body” means a body that licenses or regulates any profession of which the dentist, or the body corporate (as the case may be) is, or has been a member, including a body regulating or licensing the education, training or qualifications of that profession, and includes any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

“list” has, unless the context otherwise requires, the same meaning as in section 29(8)⁽¹²⁾ of the Act;

⁽⁹⁾ 1997 c.50. Section 113B was inserted by the Serious Organised Crime and Police Act 2005 (c.15), section 163(2).

⁽¹⁰⁾ S.S.I. 2008/312.

⁽¹¹⁾ Section 2 was amended by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 7, paragraph 1, by the 1990 Act, section 28, and Schedule 9, paragraph 19 and by the 2004 Act, schedule 2, paragraph 2(2).

⁽¹²⁾ Section 29(8) was amended by the 2002 Act, sections 25 and 27(2) and schedule 2, paragraph 2(4)(b), and the 2005 Act, section 26(2)(e).

“listed drugs” means such drugs and medicines as are included in a list for the time being approved by the Scottish Ministers for the purposes of section 27(1)(c)(13) of the Act;

“mobile surgery” means any vehicle in which care and treatment is provided;

“NHS charge” means a charge to the patient under the National Health Service (Dental Charges) (Scotland) Regulations 2003(14);

“NHS Education for Scotland” means the body of the same name constituted under the NHS Education for Scotland Order 2002(15);

“occasional treatment” means treatment mentioned in paragraph 19 of Schedule 1;

“oral health” means such a standard of health of the teeth, their supporting structures and other tissues of the mouth, and of dental efficiency, as is reasonable in the case of any patient, having regard to the need to safeguard the patient’s general health;

“orthodontic treatment” means treatment provided under and in association with section VIII (orthodontic treatment) of the Scale of Fees;

“orthodontist” means a dentist who is on the General Dental Council’s Specialist List of Orthodontists, namely the specialist lists in distinctive branches of dentistry maintained by the General Dental Council;

“patient” means a person to whom general dental services are provided;

“patient record” means the form supplied by the Health Board for the purpose of maintaining a record of treatment given to a patient or a form to like effect;

“personal dental services” has the meaning given in section 1(8) of the 1997 Act;

“pilot scheme” has the meaning given in section 1(1) of the 1997 Act;

“practice premises” means any premises or mobile surgery at which a contractor provides general dental services;

“practice record form” means a form supplied by the Health Board and completed in accordance with paragraph 29 of Schedule 1 for the purpose of obtaining general dental services in circumstances where the contractor intends to use a computer to send an estimate to the SDPB;

“private”, in the context of care and treatment, means otherwise than under general dental services or Part III of the Act; and “privately” shall be construed accordingly;

“professional conduct” includes matters relating both to professional conduct and professional performance;

“professional registration number” means the number against the dentist’s name in the register of dentists;

“register of dentists” means the register kept under section 14(16) of the Dentists Act 1984;

“SDPB” means the Scottish Dental Practice Board;

“salaried dentist” means a dentist employed by a Health Board to provide general dental services;

“Scale of Fees” means the scale of fees set out in Determination I of the Statement of Dental Remuneration;

“Statement of Dental Remuneration” means the Statement published from time to time by the Scottish Ministers in accordance with regulation 22;

(13) Section 27(1)(c) was amended by the Health Services Act 1980 (c.53), section 20; the 1990 Act, section 66 and schedule 9, paragraph 19(7) and by the Medicinal Products: Prescription by Nurses etc. Act 1992 (c.28).

(14) S.S.I. 2003/158 as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

(15) S.S.I. 2002/103 as amended by S.S.I. 2006/79.

(16) Section 14 was amended by S.I. 2005/211 and by 2007/3101.

“suspended by the Health Board” means suspended by the Health Board as respects the provision of general dental services to patients, or as respects assisting in the provision of such services, in terms of regulation 11;

“suspended by direction of the Tribunal” means suspended as respects the provision of general dental services, or as respects assisting in the provision of such services, to patients by a direction of the Tribunal made pursuant to section 32A(2) (application for interim suspension)(17) or section 32B(1) of the Act (suspension pending appeal)(18) or to any provisions in force in England and Wales or Northern Ireland corresponding (whether or not exactly) to those provisions;

“terms of service” means the terms of service set out in Schedule 1;

“trauma” means damage to teeth, gingival tissues, or *alveoli* caused by a force arising outside the mouth resulting in mobility, luxation, subluxation or fracture of the hard tissues or injury to the soft tissues;

“treatment” means all proper and necessary dental treatment which a dentist usually undertakes for a patient and which the patient is willing to undergo, including examination, diagnosis, preventative treatment, periodontal treatment, conservative treatment, surgical treatment, the supply, replacement and repair of dental appliances, orthodontic treatment, the taking of radiographs, the provision of sedation in connection with such treatment, and the supply of listed drugs and the issue of prescription forms in accordance with paragraphs 24 and 25 of Schedule 1;

“treatment on referral” means any care and treatment provided by a dentist under paragraph 14 of Schedule 1;

“treatment requiring prior approval” means any item of treatment referred to in Part I of Schedule 4 or any care and treatment specified in paragraph 1 or 2 in Part II of that Schedule;

“Tribunal” means the Tribunal constituted in accordance with the provisions of section 29 of, and Schedule 8(19) to, the Act;

“vocational training” has the meaning assigned to it by regulation 1(2) of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004(20);

“vocational training number” means the number allocated to a dentist—

- (a) in Scotland under regulation 2 of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004 or under the provisions of regulation 6 of the 1996 Regulations(21) before its revocation; and
- (b) in Northern Ireland under the General Dental Services Regulations (Northern Ireland) 1993(22).

(2) A reference to “the Agency” in these Regulations includes a reference to the Agency acting on behalf of a Health Board (unless the context otherwise requires).

(3) In these Regulations, unless the context otherwise requires—

- (a) any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations;

(17) Section 32A(2) was inserted by the National Health Service (Amendment) Act 1995 (c.31) (“the 1995 Act”), section 1 and amended by the 1999 Act, section 65 and Schedule 4, paragraph 51 and by the 2005 Act, section 26(7)(b).

(18) Section 32B(1) was substituted by the 1995 Act, section 8 and amended by the 1999 Act, section 65 and Schedule 4, paragraph 52, and by the 2005 Act, Schedule 3.

(19) Schedule 8 was amended by the 1995 Act, section 12, S.I. 1995/3214; the National Health Service (Primary Care) Act 1997 (c.46), section 41(10), and Schedule 2, Part II, paragraph 58; S.I. 1998/631; the 1999 Act, sections 65(1) and Schedule 4, paragraph 64, and by the 2005 Act, Schedule 2, paragraph 2.

(20) S.S.I. 2004/292, amended by S.I. 2009/2054.

(21) Regulation 6 was revoked by S.S.I. 2004/292.

(22) S.R. (N.I.) 1993 No. 326, as amended.

- (b) any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation; and
- (c) any reference to a numbered Schedule is a reference to the Schedule to these Regulations bearing that number.

PART II

GENERAL ARRANGEMENTS FOR PROVISION OF GENERAL DENTAL SERVICES

Terms of service

3.—(1) The arrangements which a Health Board is required by section 25 of the Act to make for the provision of general dental services shall incorporate—

- (a) in the case of a contractor (other than a salaried dentist) undertaking to provide general dental services (other than emergency dental services) the terms of service contained in Parts I, II, III, IV and V of Schedule 1;
- (b) in the case of a dentist undertaking to provide general dental services (other than emergency dental services) as a salaried dentist, the terms of service contained in Parts I, II, III, IV and VI of Schedule 1;
- (c) in the case of the provision of emergency dental services, the terms of service contained in Parts I and III, paragraphs 20, 22, 23, 24, 25, 27 and 31 of Part IV and paragraphs 46(1), 47(1) and 48 of Part VI of Schedule 1; and
- (d) in the case of a dentist or contractor (as the case may be) who has indicated in its application that it will only provide orthodontic treatment, the terms of services which apply to them in (a), (b) or (c), but only insofar as they are relevant to the provision of orthodontic treatment.

(2) A contractor shall ensure that any dentist employed or engaged by it to provide or assist in the provision of general dental services shall comply with the terms of service referred to in paragraph (1); any breach of the terms of service by such a dentist shall be deemed to be a breach of the terms of service by that contractor.

(3) A Health Board may, after consultation with an area dental committee and with the approval of the Scottish Ministers, make special arrangements with a contractor whereby the contractor undertakes to provide general dental services throughout a part of the Health Board's area specified in the arrangements, at suitable centres in the area or at the homes of persons requiring such services.

Dental list

4.—(1) Each Health Board shall prepare and maintain in accordance with these Regulations a list, called "the dental list", of those persons—

- (a) (i) who pursuant to the provisions of regulation 5 have undertaken to provide general dental services in the Health Board's area; or
- (ii) who are approved by the Health Board to assist in the provision of general dental services in the Health Board's area; and
- (b) who are not disqualified from inclusion in the dental list by virtue of—

- (i) the provisions of sections 29B(2)(**23**), 30(2)(**24**), or (5)(**25**), 32A(3)(**26**) or 32B(1)(**27**) of the Act;
 - (ii) a corresponding decision;
 - (iii) being within a category of person specified in the provisions of regulation 7 (grounds for refusal of application);
 - (iv) regulation 26(1) (practitioner subject to inquiry) of the National Health Service (Tribunal) (Scotland) Regulations 2004(**28**).
- (2) The dental list shall be divided into two parts—
- (a) the first part of which shall be of dentists and bodies corporate who have undertaken to provide general dental services under arrangements with the Health Board in terms of these Regulations; and
 - (b) the second part of which shall be of dentists who are approved by the Health Board to assist in the provision of such services.
- (3) The first part of the dental list shall be further divided into two sub-parts—
- (a) sub-part A of which shall comprise a list of dentists and bodies corporate who have undertaken to provide general dental services in the Health Board's area; and
 - (b) sub-part B of which shall comprise a list of dentists and bodies corporate who have undertaken only to provide emergency dental services in the Health Board's area.
- (4) Sub-part A of the first part of the dental list shall contain the following information:—
- (a) the name of each person and the date on which the name was included in that part of the dental list;
 - (b) the addresses of all the practice premises in the Health Board's area where each person has undertaken to provide general dental services, or in the case of a mobile surgery, the address to which correspondence in connection with such provision should be sent;
 - (c) details of the days on which and the hours between which general dental services will normally be available at such premises, or in the case of any mobile surgery particulars of the places regularly visited by the contractor and the times of such visits;
 - (d) the name of any other person in association with whom a person named on the dental list provides general dental services;
 - (e) in the case of a dentist, the date of that dentist's first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (f) in the case of a dentist, the dentist's professional registration number, details of the dental qualification held by that dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists;
 - (g) whether a person named on the dental list provides only orthodontic treatment;
 - (h) whether there is access to the practice premises without the use of stairs;
 - (i) whether there is wheelchair access to the practice premises;

(23) Section 29B(2) was added by the 1999 Act, section 58, and amended by the 2002 Act, Schedule 2, paragraph 2, the 2004 Act, Schedule 1, paragraph 1, and the 2005 Act, section 26(4) and Schedule 3.

(24) Section 30(2) was substituted by the 1999 Act, section 58 and amended by the 2005 Act, Schedule 3.

(25) Section 30(5) was substituted by the 1999 Act, section 58 and amended by the 2005 Act, Schedule 3.

(26) Section 32A(3) was inserted by the National Health Service (Amendment) Act 1995 (c.31), section 8, amended by the 1999 Act, section 65 and Schedule 4, paragraph 51 and the 2005 Act, Schedule 3.

(27) Section 32B(1) was substituted by the 1999 Act, section 65 and Schedule 4, paragraph 52, and the 2005 Act, Schedule 3.

(28) S.S.I. 2004/38 as amended by S.S.I. 2004/122, 271, 2005/335, 2006/122 and 2009/319.

- (j) whether each person named on that part of the dental list has indemnity cover against claims relating to the practice of dentistry including cover for other persons whose work that person directs, or who is employed or engaged by that person in relation to the provision of general dental services.
- (5) Sub-part B of the first part of the dental list shall contain the following information:—
- (a) the name of each person and the date on which the name was included in that part of the dental list;
 - (b) in the case of a dentist, the date of that dentist's first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (c) in the case of a dentist, the dentist's professional registration number, details of the dental qualification held by that dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists;
 - (d) the address(es) of the hospital or premises at which the dentist or body corporate will provide emergency dental services in the Health Board's area;
 - (e) whether each person named on that part of the dental list has indemnity cover against claims relating to the practice of dentistry, including cover for other persons who are employed or engaged by that person in relation to the provision of emergency dental services.
- (6) The second part of the dental list shall contain the following information:—
- (a) the name of each dentist and the date on which the name was included in that part of the dental list;
 - (b) the professional registration number of the dentist;
 - (c) the date of the dentist's first registration and any subsequent registrations as a dental practitioner in the register of dentists;
 - (d) details of the dental qualification held by the dentist which entitled that dentist to be so registered, including the date on which the qualification was awarded and details of any other dental qualification held by the dentist specified in respect of that dentist in the register of dentists; and
 - (e) whether the dentist assists in the provision of orthodontic treatment only.

Application for inclusion in the dental list and notification of changes

5.—(1) Subject to paragraphs (2) to (4), an application by a person for inclusion in a dental list shall be made in writing to the Health Board and shall include the information, declarations, certificate or application, undertakings and consents specified in Schedule 2 and—

- (a) shall state whether the applicant is a person registered in the register of dentists or a body corporate;
- (b) shall, if the application relates to sub-part A of the first part of the dental list, include the information, declarations, certificate or application, undertakings, and consents specified in Part IA of Schedule 2;
- (c) shall, if the application only relates to sub-part B of the first part of the dental list, include the information, declarations, certificate or application, undertakings and consents specified in Part IB of Schedule 2;
- (d) shall, if the application relates to the second part of the dental list, include the information, declarations, certificate or application, undertakings and consents specified in Part II of Schedule 2;

- (e) may include the information specified in Part III of Schedule 2; and
 - (f) shall, in the case of an application by a body corporate, be signed by all the directors of that body corporate.
- (2) An application may specify other Health Boards on whose dental lists the applicant wishes to be included, and such an application shall include an undertaking to provide or assist in providing general dental services, or emergency dental services (as the case may be), and comply with the relevant paragraphs of the terms of service, in the areas of the Health Boards so specified.
- (3) Before determining an application a Health Board shall—
- (a) check the information provided by the applicant and any documents which the applicant is required to produce in terms of these Regulations;
 - (b) examine references obtained from the referees nominated by the applicant;
 - (c) obtain any enhanced criminal record certificate required in respect of the application if such certificate was not included with the application;
 - (d) check with the Agency whether the applicant has any record of fraud, or is currently, or at any time has been, the subject of any investigation by the Agency, which information the Agency shall supply unless it would prejudice any criminal proceedings or the prevention, detection or investigation of fraud; and
 - (e) notify any other Health Boards on whose dental list the applicant has specified in the application the applicant seeks to be included.
- (4) If a Health Board considers that further information or documents, in addition to the documents, information and undertakings provided by the applicant in accordance with Schedule 2, are necessary to determine the application, the Health Board shall require the applicant to provide such further information or documents before it determines the application.
- (5) If the Health Board considers that it requires to meet with the applicant, or where the applicant is a body corporate, any of its directors, in order to properly determine the application it shall require the applicant, member or director (as the case may be), to attend a meeting at a reasonable time and place to discuss the application and the applicant or director (as the case may be) shall comply with such a reasonable request.
- (6) A Health Board may, if it considers that the proposed practice premises of an applicant should be inspected, inspect such premises.
- (7) Where a Health Board has not inspected the proposed practice premises of an applicant, either in response to the application from the applicant, or in response to the inclusion of any other applicant, the Health Board shall inspect the proposed practice premises before determining the application.
- (8) Any inspection made pursuant to paragraphs (6) or (7) shall be made not later than 14 days after the date of receipt of the application.
- (9) Where information about an applicant's previous convictions, including information disclosed by means of an enhanced criminal record certificate, or any other information or documents disclosed or provided to, or investigations carried out by, the Health Board in terms of this regulation, leads the Health Board to consider that there may be grounds for referral to the Tribunal, then the Health Board may refer the matter to the Tribunal.
- (10) Where an applicant for inclusion in a Health Board's dental list is already included on another Health Board's dental list, and has specified such inclusion in the application, notwithstanding paragraphs (3) and (4), the Health Board to whom the application has been made may add the name of the applicant to its dental list without further inquiry.

(11) In the case of an application to a Health Board by a dentist or body corporate already included in either part of that Health Board's dental list, that dentist or body corporate shall only be required to provide the information required by paragraphs (1), (2), (3) and (4) insofar as—

- (a) such information has not already been supplied to the Health Board; or
- (b) the information has changed since it was provided.

(12) Any dentist who is undertaking vocational training may make an application to a Health Board to be included in the first part of its dental list not more than 4 months before that dentist is due to complete the training.

(13) An application under paragraph (12) shall contain the information, declarations, certificate or application, undertakings and consents mentioned in paragraph (1), except that required by subparagraphs 1(d) and 3 of Part 1A of Schedule 2.

(14) An applicant under paragraph (12) shall provide the information required by paragraphs 1(d) and 3 of Part 1A of Schedule 2 as soon as the applicant has been notified by NHS Education for Scotland of his or her vocational training number, and the Health Board shall then, provided—

- (a) the requirements of paragraphs (12) and (13) have been complied with;
- (b) the Health Board has not sought further information, references or documentation under paragraph (4); and
- (c) the Health Board has not deferred the application under regulation 8,

decide the application within 7 days of receiving the information required under paragraphs 1(d) and 3 of Part 1A of Schedule 2.

(15) Subject to paragraph (16), a dentist who wishes to have his or her name included in sub-part A of the first part of the dental list but who does not have a vocational training number shall apply to NHS Education for Scotland for a vocational training number, and the application for a vocational training number shall be dealt with in accordance with regulation 2 of the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004⁽²⁹⁾ before the Health Board determines the application under regulation 7(3).

(16) Paragraph (15) shall not apply to a dentist who will only provide orthodontic treatment.

(17) A dentist or body corporate which has made an application for inclusion in a Health Board's dental list shall notify the Health Board which is considering the application in writing if there is a change to any of the information which that dentist or body corporate has provided in terms of this regulation as soon as such change occurs.

General provision relating to the dental list

6.—(1) Where any corresponding decision is made in England, Wales or Northern Ireland by an equivalent body that—

- (a) a person is to be included in an equivalent list subject to conditions;
- (b) a person is to be removed from an equivalent list contingent on conditions;
- (c) a person is to be disqualified from an equivalent list subject to conditions; or
- (d) any conditions so imposed are varied,

a Health Board shall impose those conditions in relation to the provision by that person of general dental services in the Health Board's area.

(2) The Health Board may make such modifications of the conditions referred to in paragraph (1) as it considers necessary for the conditions to have the like effect in relation to Scotland as they do in relation to England, Wales or Northern Ireland, but only if the Health Board has previously given

(29) S.S.I. 2004/292 amended by S.I. 2009/2054.

the person concerned notice in writing of the proposed modifications and an opportunity to make representations about them.

- (a) (3) (a) A dentist or body corporate may not provide general dental services in a Health Board's area unless the name of that dentist or body corporate is included in the first part of that Health Board's dental list;
 - (b) a dentist or body corporate may not provide general dental services in a Health Board area, (other than emergency dental services) unless the name of that dentist or body corporate is included in sub-part A of the first part of that Health Board's dental list;
 - (c) subject to regulation 33(9) a dentist may not assist with the provision of general dental services in a Health Board's area unless the name of that dentist is included in the first or second part of that Health Board's dental list;
 - (d) sub-paragraph (c) does not apply to a dentist who is undertaking vocational training for the first three months of that training;
 - (e) a dentist or body corporate may not provide general dental services (except insofar as those services are limited to orthodontic treatment) where that dentist or body corporate has indicated in its application that it will only provide orthodontic treatment.
- (4) The dental list may, provided that the dentist consents to their inclusion, also give particulars of any languages, other than English, spoken by a dentist.
- (a) (5) (a) A dentist or body corporate which is included in a Health Board's dental list shall notify the Health Board in writing if there is a change to any of the information which that dentist or body corporate has provided in terms of regulation 5 together with that changed information within 7 days of the occurrence of the relevant change;
 - (b) if the change to the information is such that, had the information been part of an application it would have required any of the declarations, certificate or application, undertakings and consents required by regulation 5 to be supplied, then the dentist or the body corporate (as the case may be) must supply such declarations, certificate or application, undertakings and consents either at the same time as it supplies the information in terms of sub-paragraph (a) or by such date as the Health Board may determine;
 - (c) if the dentist or body corporate is included in the dental list of more than one Health Board, the dentist or body corporate shall send the notification and information referred to in sub-paragraph (a) and the declarations, certificate or application, undertakings and consents required in terms of sub-paragraph (b) to each Health Board on whose dental lists that dentist or body corporate is included.
- (6) Subject to paragraph (8) the Health Board shall—
- (a) send to the Scottish Ministers, the Agency, the SDPB and the area dental committee a copy of its dental list as soon as possible after its preparation;
 - (b) amend its dental list in respect of any change or addition notified to the Health Board in terms of paragraph (5) which affects the entries which that list is required to contain; and
 - (c) notify the Scottish Ministers, the Agency, the SDPB and the area dental committee of any alteration to its dental list within 7 days of the date on which the alteration is made.
- (7) The Health Board shall send an updated copy of its dental list each year to the SDPB, the area dental committee and, subject to paragraph (8), to the Scottish Ministers and the Agency.
- (8) Where the Health Board considers that only parts of, or only some of the alterations to, the dental list are likely to concern the Scottish Ministers and the Agency, it may instead of sending a copy of the whole list or notifying them of all the alterations, send them a copy only of those parts or notify them only of those alterations.

(9) The Health Board shall inspect at intervals not exceeding three years, all practice premises of every contractor who is included on the dental list for its area (where such premises are located within its area).

Grounds for refusal of application

7.—(1) The grounds on which a Health Board must refuse to include a dentist or body corporate in its dental list are that—

- (a) the applicant is not a dentist, or body corporate;
- (b) if the applicant is a dentist, the applicant has been convicted in the British Islands of murder;
- (c) the applicant is disqualified;
- (d) the applicant is suspended from the dental list or equivalent list;
- (e) the applicant has not updated the application in accordance with regulation 8(4);
- (f) the applicant has been refused entry to, or removed from, an equivalent list by an equivalent body on grounds corresponding (whether or not exactly) to a condition for disqualification and, at the time of the application, the decision of that equivalent body remains in force;
- (g) if the applicant is a dentist, any order has been made or any direction given in terms of the Dentists Act 1984 that the applicant's registration in the register of dentists should be erased, removed or suspended, and at the time of the application, such order or direction remains in force;
- (h) if the applicant is a dentist who is also a medical practitioner, any order has been made or any direction given in terms of the Medical Act 1983⁽³⁰⁾ that the applicant's registration in the register of medical practitioners should be erased, removed or suspended, and at the time of the application, such order or direction remains in force;
- (i) if the applicant is a body corporate—
 - (i) the registration of any director of that body corporate in the register of dentists or the dental care professionals register (as the case may be) has been erased, removed or suspended and, at the time of the application, the erasure, removal or suspension remains in force; or
 - (ii) financial penalties have been imposed on the body corporate or on a director of the body corporate under section 43B of the Dentists Act 1984⁽³¹⁾;
- (j) in the case of an application by a dentist for inclusion in sub-part A of the first part of the dental list, the dentist does not have a vocational training number;
- (k) if the dentist has withdrawn his or her name from—
 - (i) a dental list prepared under regulation 4 of the 1996 Regulations, or any equivalent list, in circumstances where the Secretary of State certified for the purposes of regulation 10(4) of the National Health Service (Superannuation) (Scotland) Regulations 1980⁽³²⁾, or as the case may be, regulation 8(7) of the National Health Service (Superannuation) Regulations 1980⁽³³⁾, that in the interests of the efficiency of general dental services the dentist should cease to provide such services;
 - (ii) a dental list prepared by any Health Board in terms of these Regulations, or under regulation 4 of the 1996 Regulations, in circumstances where the Secretary of State

⁽³⁰⁾ 1983 c.54.

⁽³¹⁾ Section 43B was inserted by S.I. 2005/2011.

⁽³²⁾ S.I. 1980/1177 (now revoked).

⁽³³⁾ S.I. 1980/362 (now revoked).

or the Scottish Ministers certified for the purposes of regulation E3(1)(b) (in respect of the period before 1st December 2006) or regulation E3(2)(b)(ii) or E3A(2)(d)(ii) (in respect of the period from 1st December 2006) of the National Health Service (Superannuation) (Scotland) Regulations 1995(34) that in the interests of the efficiency of general dental services the dentist should cease to provide such services; or

(iii) an equivalent list in circumstances where the Secretary of State has certified for the purposes of regulation E3(1)(b) (in respect of the period before 1st December 2006) or regulation E3(2)(b)(ii) or E3A(2)(d)(ii) (in respect of the period from 1st December 2006), of the National Health Service Pension Scheme Regulations 1995(35), or the Department of Health, Social Services and Public Safety in Northern Ireland has certified for the purposes of regulation 14(1)(b) of the Health and Personal Social Services (Superannuation) Regulations (Northern Ireland) 1995(36) that in the interests of efficiency of the service in which the dentist is employed the dentist's employment is terminated;

- (l) the Health Board is not satisfied that the applicant (if a dentist) has a knowledge of English which, in the interests of the applicant and of patients who may receive general dental services from the applicant, is necessary for providing, or assisting with the provision of, general dental services;
- (m) the applicant is employed by, is in an associateship agreement with, or intends (in the opinion of the Health Board) to be employed by, or in an associateship agreement with, a dentist or a dental body corporate that is disqualified at the time;
- (n) the applicant provides, or intends to provide services under a contract of service to a dentist or a dental body corporate that is disqualified at the time;
- (o) the applicant is a partner, or intends to be a partner of, a dentist or dental body corporate that is disqualified at the time;
- (p) the Health Board is not satisfied, after an inspection of the premises from where the applicant intends to provide general dental services, that the premises comply with the provisions of paragraph 42 of Schedule 1 which relate to the standards of premises and equipment required for the provision by a contractor of general dental services.

(2) Paragraph (1) is without prejudice to any duty on a Health Board not to add the applicant to a dental list by virtue of regulation 26 (practitioners subject to inquiry) of the National Health Service (Tribunal) (Scotland) Regulations 2004(37).

(3) When the Health Board has decided whether or not to include an applicant in its dental list, it shall, within 7 days, notify the applicant and any other Health Board which the applicant has specified in the application of that decision and if the Health Board has decided not to include the applicant, the grounds for the decision.

(4) When a Health Board has decided to include an applicant in a part or sub-part of its dental list and has notified another Health Board of that decision in accordance with paragraph (3), that other Health Board will not be required to comply with paragraphs (3) and (4) of regulation 5, and may include the applicant in that part or sub-part its dental list without further enquiry.

(34) S.I. 1995/365; regulations E3 and E3A were substituted for regulation E3 by S.S.I. 2006/561, regulation E3 was amended by S.S.I. 2008/226.

(35) S.I. 1995/300; regulations E3 and E3A were substituted for regulation E3 by S.I. 2006/2919, regulation E3 was amended by S.I. 2008/654.

(36) SR 1995 No. 95. Regulation 14(1)(b) was amended by SR 2002 No. 69.

(37) S.S.I. 2004/38 as amended by S.S.I. 2004/122, 271, 2005/335, 2006/122 and 2009/319.

Deferment of a decision on application

8.—(1) Without prejudice to the Health Board’s power under section 29 of the Act (the NHS Tribunal) to make representations to the Tribunal that an applicant meets a condition for disqualification, a Health Board may defer a decision on any application to be included in its dental list, where—

- (a) there are, in respect of the applicant, or if the applicant is a body corporate, any director of the applicant—
 - (i) criminal proceedings in the British Islands conviction in respect of which would be likely to lead to refusal to include the applicant or such director in, or the removal of the applicant or such director from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification, or
 - (ii) proceedings elsewhere in the world relating to conduct, which, if it had occurred in the British Islands, would constitute a criminal offence, the outcome of which would be likely to lead to refusal to include the applicant or such director in, or the removal of the applicant or such director from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification;
- (b) in respect of a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director, there are—
 - (i) criminal proceedings in the British Islands conviction in respect of which would be likely to lead to refusal to include the applicant in, or the removal of the applicant from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification, or
 - (ii) proceedings elsewhere in the world relating to conduct which, if it had occurred in the British Islands, would constitute a criminal offence, the outcome of which would be likely to lead to refusal to include the applicant in, or the removal of the applicant from, a dental list, or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification;
- (c) the applicant or a body corporate of which the applicant is, or has in the preceding 6 months been, or was at the time of the originating events, a director, is the subject of an investigation or proceedings relating to the professional conduct of the applicant or the body corporate by any licensing or regulatory body (including one by the Agency or another Health Board or equivalent body) in the United Kingdom or elsewhere in the world, the outcome of which would be likely to lead to refusal to include in, or removal from, a dental list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant meets a condition for disqualification;
- (d) the applicant is a body corporate, any director of the applicant is the subject of an investigation or proceedings relating to the professional conduct of the applicant or such director by any licensing or regulatory body (including one by the Agency or another Health Board or equivalent body) in the United Kingdom or elsewhere in the world, the outcome of which would be likely to lead to refusal to include in, or removal from, a dental list or would be likely to lead the Tribunal (if representations were made to it) to be of the opinion that the applicant or such director meets a condition for disqualification;
- (e) a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director, or where the applicant is a body corporate,

any director of the body corporate, is suspended from any list by direction of the Tribunal or is suspended from an equivalent list;

- (f) the applicant, or where the applicant is a body corporate any director of the applicant, is being investigated by the Agency or other body in relation to any fraud, where the result, if adverse, would be likely to lead to the removal of the applicant or such director from the Health Board’s dental list if the applicant or such director were to be included in it;
- (g) a body corporate, of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events a director, is being investigated by the Agency or other body in relation to any fraud, where the result, if adverse, would be likely to lead to the applicant’s removal from the Health Board’s dental list if the applicant were to be included in it;
- (h) the Tribunal is considering an application from a Health Board for disqualification of the applicant or where the applicant is a body corporate any director of the applicant, or of a body corporate of which the applicant is, has in the preceding 6 months been, or was at the time of the originating events, a director;
- (i) the applicant or any director of the applicant is suspended from a list by a Health Board, or from an equivalent list by an equivalent body; or
- (j) after an inspection of the premises under regulation 5(6) or (7) the Health Board provided the applicant with a reasonable period of time to carry out such work as the Health Board specified in order to ensure that the premises met the required standard to comply with the provisions of paragraph 42 of Schedule 1 which relate to the standards of premises and equipment required for the provision by a contractor of general dental services.

(2) A Health Board may only defer a decision under paragraph (1) until the outcome of the relevant event mentioned in any of sub-paragraphs (a) to (j) of that paragraph is known.

(3) The Health Board must notify the applicant that it has deferred a decision on the application and the grounds for the deferral.

(4) Once the outcome of the relevant event mentioned in paragraph (1) is known, the Health Board shall notify the applicant in writing that the applicant must within 28 days of the date of the notification (or such longer period as the Health Board may agree)—

- (a) update the applicant’s application; and
- (b) confirm in writing that the applicant wishes to proceed with the application,

and the provisions of regulations, 5, 6 and 7 shall apply to the application.

(5) Provided any additional information required by paragraph (4) has been received within the period specified in paragraph (4) or any longer period agreed, the Health Board shall notify the applicant as soon as possible—

- (a) that the application has been successful; or
- (b) that the Health Board has decided to refuse the application and the grounds for that decision.

(6) In this regulation, “the outcome of the relevant event” means the final determination of any proceedings (including proceedings pending the determination of which the applicant is suspended) or investigation referred to in paragraph (a) to (j).

Local directory of dentists

9.—(1) A Health Board may prepare and thereafter maintain a local directory of dentists which may contain, in respect of each dentist whose name is included in its dental list—

- (a) any information included in the dental list in respect of the dentist; and

- (b) any other information related to the provision or assistance with provision of general dental services which the Health Board has agreed with the area dental committee to be appropriate.

(2) Where a Health Board has agreed with the area dental committee that certain information should be included in the local directory of dentists, it may request in writing any dentist whose name is included in its dental list to provide the Health Board with such information as it relates to that dentist, and the dentist shall provide that information within 28 days of the date of the Health Board's request.

Requirements with which a dentist or body corporate included in a dental list must comply

10.—(1) A dentist or body corporate included in a Health Board's dental list shall—

- (a) exercise a reasonable standard of professional and clinical judgement, behaviour, skill, knowledge and care towards patients who receive general dental services from that dentist or body corporate;
- (b) comply with the terms of service appropriate to the part or sub-part of the dental list on which the name of the dentist or body corporate appears;
- (c) comply with the undertakings specified in Schedule 2 appropriate to the part or sub-part of the dental list on which the name of the dentist or body corporate appears whether or not those undertakings were included in an application by the dentist or body corporate under regulation 5; and
- (d) comply with any other requirement of these Regulations.

Suspension

11.—(1) If a Health Board is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a dentist or body corporate from its dental list in accordance with this regulation—

- (a) while it considers whether to remove that person from its dental list under regulation 12;
- (b) while it waits for a decision affecting that person of a court anywhere in the world, or of a licensing or regulatory body;
- (c) while it considers whether to refer that person to the Tribunal;
- (d) while it awaits a finding by the Tribunal or other equivalent body;
- (e) where it has decided to remove that person from its dental list but before that decision takes effect.

(2) In paragraph 1(b) “decision” means the final determination of the relevant proceedings, after any appeal or other review procedure has been exhausted.

(3) In a case falling within paragraph (1)(a) or (c), the Health Board must specify a period, not exceeding six months, as the period of suspension.

(4) In a case falling within paragraph (1)(b), the Health Board may specify that the dentist or body corporate (as the case may be) remains suspended after the decision referred to in that paragraph has been made for an additional period, not exceeding six months.

(5) In a case falling within paragraph (1)(d), the term of suspension may exceed six months.

(6) If the Health Board suspends a dentist or body corporate in a case falling within paragraph (1)(e) the suspension has effect from the date the Board informed that person of the suspension.

(7) The Health Board may extend the period of suspension under paragraph (3) or impose a further period of suspension under paragraph (4), so long as the aggregate period of suspension does not exceed 6 months.

(8) The effect of a suspension is that, while a dentist or body corporate is suspended under these Regulations, that person is to be treated as not being included in the dental list even though that person's name appears in it.

(9) The Health Board may at any time revoke the suspension and notify the dentist or body corporate (as the case may be) of its decision.

(10) Where a Health Board is considering suspending a dentist or body corporate or varying the period of suspension under this regulation, it shall give the dentist or body corporate (as the case may be)—

- (a) notice of any allegation against that person;
- (b) notice of what action it is considering and on what grounds; and
- (c) the opportunity to put that person's case at an oral hearing before the Health Board, on a specified day, provided that at least 24 hours' notice of the hearing is given.

(11) If the dentist or body corporate (as the case may be) does not wish to have an oral hearing or does not attend the oral hearing, the Health Board may suspend that person with immediate effect.

(12) If an oral hearing does take place, the Health Board shall take into account any representations made at the hearing before it reaches its decision.

(13) The Health Board may suspend the dentist or body corporate (as the case may be) with immediate effect following the hearing.

(14) The Health Board shall notify the dentist or body corporate (as the case may be) of its decision and the reasons for it (including any facts relied upon) within 7 days of making that decision.

(15) During a period of suspension, payments shall be made to or in respect of the dentist or body corporate (as the case may be) in accordance with regulation 26.

Removal from dental list

12.—(1) Subject to paragraph (2) where a Health Board has determined that a dentist whose name has been included in its dental list has died, the Health Board shall remove the dentist's name from the dental list with effect from the date of its determination.

(2) Where a dentist has died and—

- (a) for so long as the dentist's practice is carried on by the dentist's personal representatives, surviving spouse, surviving civil partner, or any of the children of the deceased dentist, or trustees on behalf of the personal representatives, surviving spouse, surviving civil partner or any of the children of the deceased dentist, ("the dentist's personal representatives") in accordance with the provisions of the Dentists Act 1984(**38**), and
- (b) the dentist's personal representatives have appointed for that purpose a dentist or body corporate whose name is included in sub-part A of the first part of the dental list of the Health Board,

the Health Board shall not remove the dentist's name from the dental list.

(3) Where a Health Board has determined that a dentist or body corporate whose name has been included in its dental list—

- (a) has ceased to be a dentist or body corporate entitled by virtue of section 43 of the Dentists Act 1984 to carry on the business of dentistry;
- (b) in the case of a dentist, has been convicted in the British Islands of murder;
- (c) is disqualified;

- (d) has been refused entry to, or removed from, an equivalent list by an equivalent body on grounds corresponding (whether or not exactly) to a condition for disqualification (and that refusal or removal is still in force);
- (e) in the case of a dentist, any order has been made or any direction given in terms of the Dentists Act 1984 that the dentist's registration in the register of dentists should be erased, removed or suspended and that erasure, removal or suspension is still in force (except where such order is an interim order or a direction is solely on the ground contained in section 27(2)(c)(39) of the Dentists Act 1984);
- (f) in the case of a dentist who is also a medical practitioner any order has been made or any direction given in terms of the Medical Act 1983(40) that person's registration in the register of medical practitioners should be erased, removed or suspended and that erasure, removal or suspension is still in force (except where such order is an interim order or a direction which relates to a health case (as health case is defined in section 35E of the Medical Act 1983));
- (g) in the case of a body corporate—
 - (i) the registration of any director of that body corporate in the register of dentists or the dental care professionals register (as the case may be) has been erased, removed or suspended and that erasure, removal or suspension is still in force (except where such an order is an interim order or a direction is solely on the ground contained in section 27(2)(c) of the Dentists Act 1984); or
 - (ii) financial penalties have been imposed on the body corporate or on a director of the body corporate under section 43B of the Dentists Act 1984(41);

it shall remove the name of that dentist or body corporate from the dental list with effect from the date of its determination or, in the case of (c) above, the date on which the disqualification takes effect if that date is later than the date of the Health Board's determination, and shall notify that dentist or body corporate as soon as practicable of the removal and the grounds for that removal.

- (4) Subject to paragraph (5), where a Health Board has determined that—
- (a) a dentist or body corporate whose name has been included for the preceding 6 months in the first part of its dental list, has not provided general dental services during that period;
 - (b) a dentist whose name has been included for the preceding 12 months in the second part of its dental list, has not assisted with the provision of general dental services during that period;
 - (c) the dentist is employed by a dentist or a body corporate that is disqualified at the time;
 - (d) the dentist or body corporate provides services under a contract of service to a dentist or a dental body corporate that is disqualified at the time;
 - (e) the dentist or body corporate is a partner of a dentist or a dental body corporate that is disqualified at the time;
 - (f) a dentist who is deemed to be included in a Health Board's dental list by virtue of regulation 33(3)(a) or (b) has failed to provide to the Health Board all of the information, declarations, certificates, undertakings or consents required under, and within such timescales as is prescribed in, regulation 33(6); or
 - (g) a dentist or dental body corporate is in an associateship agreement with a dentist or dental body corporate that is disqualified at the time;

the Health Board shall remove the name of the dentist or body corporate from its dental list.

(39) Section 27 was substituted by [S.I. 2005/2011](#).

(40) [1983 c.54](#).

(41) Section 43B was inserted by [S.I. 2005/2011](#).

- (5) Before making any determination under paragraph (4) the Health Board shall—
- (a) give the dentist or body corporate 28 days’ notice of its intention to do so;
 - (b) afford the dentist or body corporate an opportunity of making representations to the Health Board in writing or in person; and
 - (c) in the case of a determination under paragraph 4(a) and (b) only, where the name of the dentist or body corporate is included in sub-part A of the first part of the dental list or where the name of the dentist is included in the second part of the dental list, consult the area dental committee.
- (6) In calculating the period of 6 months or 12 months referred to in paragraph (4) there shall be disregarded any period during which—
- (a) the dentist was performing relevant service;
 - (b) the dentist was on statutory maternity, paternity or adoption leave;
 - (c) the dentist was unable to provide general dental services or assist with the provision of such services because of sickness;
 - (d) the dentist or body corporate was suspended by direction of the Tribunal or was suspended by the Health Board, or
 - (e) the dentist or body corporate was performing personal dental services in connection with a pilot scheme.
- (7) In this regulation “relevant service” means—
- (a) whole-time service in the armed forces of the Crown in a national emergency as volunteer or otherwise; or
 - (b) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
 - (c) any equivalent service by a person liable for compulsory whole-time service in those forces.
- (8) Nothing in this regulation shall prejudice any right of a dentist or body corporate to have the dentist’s or body corporate’s name included again in a dental list.
- (9) In this regulation “interim order” as referred to in paragraph (3)(e) and 3(g)(i) and in paragraph (3)(f) has the same meaning as in the Dentists Act 1984 and in the Medical Act 1983 respectively.

Re-inclusion in dental list

13.—(1) Where a dentist or body corporate has been removed from a Health Board’s dental list under regulation 12, and the occurrence that led to that removal is overturned either on appeal, or for any other reason, the Health Board may include that person in its dental list without an application being made in accordance with regulation 5 if the Health Board is satisfied that there is no further information which it should consider, and provided that the Health Board receives undertakings from that person to comply with these Regulations.

(2) Where the Health Board considers that further information is required, a dentist or body corporate wishing to be re-included in the dental list will be required to provide that further information and undertakings or, at the option of the Health Board, complete a full application in accordance with regulation 5.

Disclosure of information

14.—(1) Where a Health Board decides to—

- (a) refuse to admit a dentist or body corporate to its dental list on the grounds specified in regulation 7;
- (b) suspend a dentist or body corporate from its dental list, or end a suspension under regulation 11; or
- (c) remove a dentist or body corporate from its dental list on the grounds specified in regulation 12,

the Health Board shall notify the bodies specified in paragraph (2), and shall additionally notify those specified in paragraph (3), if requested to do so by those persons or bodies in writing, of the matters set out in paragraph (4).

- (2) A Health Board shall, within 7 days, notify a decision under paragraph (1) to—
 - (a) the Scottish Ministers;
 - (b) the Agency;
 - (c) any other Health Board or equivalent body which, to the knowledge of the notifying Health Board—
 - (i) has that dentist or body corporate on any list or equivalent list;
 - (ii) is considering an application by that dentist or body corporate for inclusion in any list or equivalent list; or
 - (iii) is investigating an allegation against that dentist or body corporate;
 - (d) the Secretary of State;
 - (e) the National Assembly for Wales;
 - (f) the Northern Ireland Executive;
 - (g) the General Dental Council or any other appropriate licensing or regulatory body;
 - (h) NHS Education for Scotland.
- (3) The persons or bodies to be additionally notified in accordance with paragraph (1) are—
 - (a) persons or bodies which can establish that they are employing that dentist, or using the services of that dentist or body corporate to provide or assist with the provision of general dental services;
 - (b) a body corporate which provides general dental services and which can establish that the dentist or body corporate is one of the body of persons which governs or controls the body corporate.
- (4) The matters referred to in paragraph (1) are—
 - (a) the name of the dentist or body corporate;
 - (b) the professional registration number of the dentist;
 - (c) a copy of the Health Board’s decision; and
 - (d) a contact name of a person in the Health Board for further enquiries.
- (5) The Health Board shall send the dentist or body corporate a copy of any information provided to the persons or bodies listed in paragraphs (2) or (3), and any correspondence with such persons or bodies.
- (6) Where the Health Board has notified any of the persons or bodies specified in paragraphs (2) or (3) of the matters set out in paragraph (4), it may, in addition, if requested by that person or body, notify that person or body of any information that was considered by the Health Board, including any representations from the dentist or body corporate (as the case may be).

(7) A Health Board may disclose information about a dentist or body corporate supplied to it or acquired by the Health Board pursuant to these Regulations, or about references by the Health Board to the Tribunal, to any of the following:—

- (a) the Scottish Ministers;
- (b) the Agency;
- (c) any other Health Board or equivalent body, which—
 - (i) has the person to whom the information relates on any list or equivalent list;
 - (ii) is considering an application from such a person for inclusion in any list or equivalent list; or
 - (iii) is investigating an allegation against that person;
- (d) the Secretary of State;
- (e) the National Assembly for Wales;
- (f) the Northern Ireland Executive;
- (g) the General Dental Council or any other licensing or regulatory body;
- (h) persons or bodies which can establish that they are employing that person or using the services of that person for the provision, or assistance with the provision, of general dental services;
- (i) a body corporate which provides general dental services, and can establish that the person is one of the body of persons which governs or controls the body corporate;
- (j) NHS Education for Scotland.

Withdrawal from dental list

15.—(1) Subject to paragraph (2), a dentist or body corporate may at any time give notice in writing to the Health Board of the intention to withdraw from the dental list and the name of the dentist or body corporate shall be removed from the Health Board’s list after the expiry of 3 months from the date of the notice, or such shorter period as the Health Board may agree.

(2) Where, in relation to any dentist or body corporate, representations are made to the Tribunal under section 29 of the Act (the NHS Tribunal), or a request for a review has been made to the Tribunal or a review is to be made by the Tribunal under section 30 of the Act (review etc. of disqualification) the dentist or body corporate shall not, except with the consent of the Scottish Ministers and subject to such conditions, if any, as the Scottish Ministers impose, be removed from the dental list until the proceedings on such representations, request for review or review have been determined.

Information about assistants

16. A Health Board shall send to the SDPB any information it receives under paragraph 44 of Schedule 1 (deputies and assistants) within 7 days of the date of its receipt of the information.

Information about associateship agreements

17.—(1) Where an associateship agreement is made, notice in writing of the names of the parties to the agreement and the date of the agreement shall be sent to the Health Board within 7 days of that date.

(2) Notice in writing of any change in the parties to, or the termination of, any associateship agreement shall be sent to the Health Board within 7 days of such change or termination.

(3) The notices referred to in paragraphs (1) and (2) shall be sent by the person, or one of the persons, liable by virtue of the associateship agreement to provide the use of practice premises and facilities.

(4) A Health Board shall, within 7 days of the date of receipt of the notice, supply the SDPB with information it receives under paragraphs (1) and (2).

Transfer of continuing care and capitation arrangements

18.—(1) Subject to paragraphs (2) and (3) where the name of a dentist or body corporate who is providing care and treatment for patients under continuing care arrangements or capitation arrangements ceases to be included in sub-part A of the first part of the dental list, or such a dentist or body corporate is suspended by direction of the Tribunal or suspended by the Health Board, the Health Board may, after consultation with the area dental committee and with the agreement of the patients concerned, make arrangements with one or more dentists or bodies corporate whose names are included in sub-part A of the first part of the dental list for the continuing care arrangements or capitation arrangements to be transferred to that or those dentists or bodies corporate.

(2) Where the name of a dentist who has died remains on sub-part A of the first part of its dental list under regulation 12(2), the Health Board shall, subject to the agreement of the patients concerned, make arrangements with the dentist or body corporate appointed by the dentist's personal representatives for the care and treatment under any continuing care arrangements or capitation arrangements entered into by the deceased dentist to be provided by that dentist or body corporate.

(3) Where a suspension by direction of the Tribunal or suspension by the Health Board ceases to have effect and the suspended dentist or body corporate continues to be included in sub-part A of the first part of its dental list, the Health Board shall make arrangements for any continuing care arrangements or capitation arrangements transferred under paragraph (1) to be transferred back to the original dentist or body corporate, subject to the agreement of the patients concerned.

Emergency dental services

19.—(1) A Health Board may make arrangements with any dentist or body corporate whose name is included in any part of its dental list for the provision of emergency dental services in urgent cases at a hospital or premises of the Health Board or any other premises approved by the Health Board when contractors in the Health Board's area are not normally available to provide general dental services.

(2) For the purpose of section 25(3)(b) of the Act a Health Board may pay to a dentist remuneration which consists wholly or mainly of a sessional fee where the dentist provides emergency dental services.

(3) In this regulation an "urgent case" means any circumstances in which, in the opinion of a dentist, a patient needs immediate treatment for an acute condition.

Arrangements for emergency cover

20. It shall be the responsibility of a Health Board to make any arrangements that may be necessary to enable a salaried dentist whose name is included in sub-part A of the first part of its dental list to comply with the dentist's obligations under paragraph 6 of Schedule 1.

Health Board patient information leaflets

21. A Health Board shall compile and make available a patient information leaflet which shall include the information specified in Schedule 6 and details of the provision of general dental services by salaried dentists in the Health Board's area.

PART III

REMUNERATION

Statement of Dental Remuneration

22.—(1) The Scottish Ministers shall, after consultation with such organisations as appear to them to be representative of persons providing general dental services, make provision for each of the matters set out in Column 2 of the following Table in a determination and each determination shall bear the number in Column 1 of the said Table which corresponds with the subject matter of the determination:—

TABLE

<i>Column 1 Determination</i>	<i>Column 2 Subject Matter of Determination</i>
I	A Scale of Fees which shall prescribe the remuneration to be paid to a contractor, other than a salaried dentist, for care and treatment under a continuing care arrangement or a capitation arrangement, treatment on referral and occasional treatment and the conditions of payment of remuneration.
II	Rates of remuneration for a salaried dentist and for the provision of emergency dental services.
III	Seniority payments
IV	Vocational training allowances.
V	Maternity, paternity and adoptive leave payments.
VI	Long term sickness payments.
VII	Continuing professional development allowances
VIII	Reimbursement of non-domestic rates
IX	Commitment payments

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

<i>Column 1</i> <i>Determination</i>	<i>Column 2</i> <i>Subject Matter of Determination</i>
X	Allowances and grants for practice improvements
XI	Clinical audit allowances
XII	Remote area allowances
XIII	Recruitment and retention allowances
XIV	Practice allowances
XV	Reimbursement of practice expenses

(2) The Scottish Ministers shall publish the determinations in a statement called the Statement of Dental Remuneration.

(3) The Scottish Ministers may from time to time after consultation with organisations as appear to them to be representative of persons providing general dental services, amend a Determination or any part thereof and shall publish any such amendment.

(4) A Determination or an amendment to a Determination shall be in respect of a period beginning on or after a date specified in that Determination or amendment, which may be the date of that Determination or amendment or an earlier or later date, but may be an earlier date only if, taking the Determination as a whole, it is not detrimental to persons to whose remuneration it relates.

Approval of payments

23.—(1) The SDPB shall, where it is satisfied that—

- (a) a patient has been accepted by a contractor, other than a salaried dentist, under a continuing care arrangement or a capitation arrangement or for treatment on referral, authorise the payments which, in accordance with the Scale of Fees, fall to be made by the Agency to the contractor in respect of such an arrangement or referral; or
- (b) a continuing care arrangement or a capitation arrangement has terminated, or treatment on referral has terminated or has been completed, authorise the Agency to cease such payments to the contractor.

(2) The SDPB shall, where it approves a claim for remuneration made by a contractor, other than a salaried dentist, in respect of—

- (a) care and treatment under a continuing care arrangement or a capitation arrangement;
- (b) treatment on referral; or
- (c) occasional treatment;

authorise in accordance with the Scale of Fees, the remuneration to be paid by the Agency to the contractor in respect of such care and treatment, treatment on referral, or occasional treatment.

(3) In any case falling within paragraph 15 of Schedule 1 (inability to complete treatment), the SDPB shall authorise the remuneration to be paid by the Agency to a contractor, other than a salaried

dentist, in respect of the care and treatment or occasional treatment provided in accordance with the Scale of Fees, and without prejudice to the provisions of the National Health Service (Dental Charges) (Scotland) Regulations 2003⁽⁴²⁾.

(4) The Agency shall pay to a contractor, other than a salaried dentist, the remuneration—

(a) authorised by the SDPB under paragraphs (1)(a), (2) and (3); and

(b) (i) in the case of a dentist (who is a contractor) in accordance with Determinations III, V, VI, VII, VIII, IX, Parts II and III of X, XI, XII, XIII, XIV and XV of the Statement of Dental Remuneration; or,

(ii) in the case of a dental body corporate in accordance with Determinations VIII, IX Parts II and III of X, XI, XIV and XV of the Statement of Dental Remuneration.

(5) A Health Board shall pay to a person providing emergency dental services remuneration in accordance with Determination II of the Statement of Dental Remuneration.

(6) The SDPB may at its discretion in cases of orthodontic care and treatment, authorise payments on account pending completion of that care and treatment.

(7) Where the SDPB has authorised a payment to a pilot scheme provider for providing personal dental services to a patient, it shall not authorise any payment under these Regulations in relation to the same patient to the same pilot scheme provider, or to any dentist performing personal dental services in connection with that pilot scheme, unless the patient has been referred under these Regulations for treatment by way of personal dental services under that pilot scheme.

Drugs

24. The fees payable by a Health Board to a contractor in respect of listed drugs under paragraph 24 of Schedule 1 for use before a supply can otherwise be obtained under paragraph 24 of that Schedule, shall be calculated in accordance with the provisions of the Drug Tariff prepared by the Scottish Ministers under regulation 9 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009⁽⁴³⁾, or under any corresponding provision replacing, or otherwise derived from, those regulations.

Recovery of overpayments

25.—(1) Where the SDPB, the Agency or a Health Board considers that it has made a payment to a person owing to an error or in circumstances where it was not due, it shall, except to the extent that the Scottish Ministers on the application of the SDPB, the Agency or the Health Board direct otherwise, draw the overpayment to the attention of the person to whom that payment was made and the amount overpaid shall be recoverable as a debt by any lawful means.

(2) Recovery of an overpayment under the provisions of this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

⁽⁴²⁾ S.S.I. 2003/158 as amended by S.S.I. 2004/101, 2005/121 and 2006/131.

⁽⁴³⁾ S.S.I. 2009/183 as amended by S.S.I. 2009/209 and 2010/128.

PART IV

PAYMENTS IN CONSEQUENCE OF SUSPENSION

Payments to dentists or bodies corporate suspended by a Health Board or by direction of the Tribunal

26.—(1) A Health Board shall authorise the Agency to make payments to any dentist or body corporate suspended by the Health Board or by direction of the Tribunal, in accordance with the Scottish Ministers' Determination for the time being in force in relation to such payments.

(2) The Scottish Ministers shall make the Determination in accordance with paragraphs (3) and (4) after consultation with the organisations as appear to them to be representative of persons providing general dental services, and the Determination shall be published with the Statement of Dental Remuneration.

(3) Subject to paragraph (4), the Scottish Ministers' Determination—

(a) shall determine any sum payable by reference to remuneration which the dentist or body corporate might have received during the period that person was suspended and may provide that the assessment of such remuneration shall take into account such factors and evidence as may be specified; and

(b) may also determine any sum payable by reference to any other payment received or which might have been received by the dentist or body corporate had that person not been suspended and may provide that the assessment of such remuneration shall take into account such factors and evidence as may be specified.

(4) The Scottish Ministers' Determination may include provision that payments under the Determination are not to exceed a specified amount in any specified period.

(5) The Scottish Ministers may from time to time after consultation with organisations that appear to them to be representative of persons providing general dental services, amend a Determination under this regulation or any part thereof and shall publish any such amendment with the Statement of Dental Remuneration.

(6) Where the Agency considers that it has made a payment to a dentist or body corporate owing to an error or in circumstances where it was not due, the Agency shall, except to the extent that the Scottish Ministers on the application of the Health Board direct otherwise, draw the overpayment to the attention of the dentist or body corporate and the amount overpaid shall be recoverable as a debt by any lawful means.

(7) If a dentist or body corporate (as the case may be) is dissatisfied with a decision of a Health Board ("the original decision")—

(a) not to authorise the Agency to make a payment to, or in respect of, that person pursuant to a determination under this regulation;

(b) to authorise the Agency to make a payment to, or in respect of, that person pursuant to a determination under this regulation, but at a lower level than the level to which the suspended dentist or body corporate (as the case may be) considers to be correct; or

(c) in respect of recovery of what the Health Board considers to be an overpayment;

that person may ask the Health Board to review the original decision and, if that person does so, the Health Board shall reconsider the original decision, and once it has done so, it must notify that person in writing of the outcome of that reconsideration ("the reconsidered decision") and give that person notice of the reasons for the reconsidered decision.

PART V

PRIOR APPROVAL (PATTERNS OF TREATMENT) AND SURVEYS

Prior approval - patterns of treatment

27.—(1) Where in the opinion of the SDPB a dentist's pattern of treatment in respect of all or any particular description of treatment provided as part of general dental services in the area of any Health Board, differs so substantially from the local or national pattern of treatment of other dentists as to warrant further investigation, the SDPB may, after consulting the Agency about the matter, write to the dentist and any person by whom that dentist is employed or engaged in the provision of, or assistance with the provision of, general dental services ("the employer")—

- (a) giving details of the dentist's pattern of treatment in respect of all or any particular description of treatment and stating the extent to which it differs from the local or national pattern of treatment of other dentists;
- (b) inviting the dentist to submit to the SDPB in writing the reasons why the dentist's pattern of treatment differs from that local or national pattern; and
- (c) giving notice to the dentist and, where relevant, the employer that if—
 - (i) the dentist fails to reply within 28 days; or
 - (ii) the dentist's reply discloses no reasonable grounds, in the opinion of the SDPB, for the dentist's pattern of treatment to differ from that local or national pattern of treatment;

the SDPB may give a direction as mentioned in paragraph (2).

(2) Where the dentist fails—

- (a) to reply within 28 days; or
- (b) to disclose the reasonable grounds as mentioned in paragraph (1)(c)(ii),

the SDPB may direct the dentist not to provide or assist in the provision of treatment, or a description of treatment specified in the direction, for a period between 3 months and 9 months as specified in the direction, without obtaining prior approval of an estimate from the SDPB, but nothing in any such direction shall prevent the dentist, without such approval, from providing or assisting in the provision of treatment following trauma or in an emergency, any private treatment or, in the course of any single consultation, treatment of a patient consisting of one examination and the taking of no more than 2 small radiographs, each of a size not exceeding 16 square centimetres.

(3) Where the SDPB gives a direction under paragraph (2), the direction shall inform the dentist of the dentist's right to appeal under regulation 29 and the direction shall have no effect until the expiry of the period allowed by that regulation for the bringing of an appeal and, if such an appeal is brought, until the determination of the appeal.

(4) The SDPB shall not give a direction to a dentist under paragraph (2) in consequence of having written to him under paragraph (1) more than 12 months previously.

(5) Where the SDPB gives a direction to a dentist under paragraph (2), it shall not give a further direction under that paragraph in relation to that dentist in respect of any treatment specified in the earlier direction for a period of 9 months beginning with the expiry of the period specified in the earlier direction or, where the dentist appeals that earlier direction and the appeal is allowed, the date on which the appeal is allowed.

(6) Paragraphs (1) and (2) shall not apply to any treatment for which a contractor is remunerated in accordance with Section X (treatment under capitation) of Determination I of the Statement of Dental Remuneration and for which the contractor receives no remuneration other than a capitation payment.

(7) Where, on the date on which the SDPB gives a direction under paragraph (2), the name of the dentist in respect of whom the direction is given is not included in any dental list, the period specified in the direction shall not begin until the day after the dentist's name is again included in a dental list .

(8) For the purpose of computing the date on which the period specified in any direction given under paragraph (2) comes to an end, no account shall be taken of any day on which the dentist's name is not included in any dental list.

(9) In this regulation—

(a) “pattern of treatment” means—

- (i) the number of instances in which an item or items of treatment are provided by or on behalf of a dentist; or
- (ii) the ratio which the number of instances relating to one such item bears to the number of instances relating to another such item;

(b) “local”, in relation to pattern of treatment, means in the Health Board's area; and

(c) “national”, in relation to pattern of treatment, means throughout Scotland.

Surveys of the provision of general dental services

28. The SDPB may conduct or commission surveys or other research relating to the provision of general dental services.

PART VI

APPEALS FROM DECISIONS OF THE SDPB

Appeals from decisions of the SDPB

29.—(1) This regulation applies to appeals which are permitted by paragraph (2) against decisions of the SDPB.

(2) Subject to paragraph (3), an appeal may be made to a Health Board in whose dental list the name of the contractor or dentist concerned is included—

- (a) by any person aggrieved by a decision of the SDPB concerning the treatment or intended treatment by the dentist concerned of a patient; or
- (b) by any contractor aggrieved by a decision of the SDPB concerning fees in respect of that contractor's provision or intended provision of general dental services; or
- (c) by any dentist aggrieved by a decision of the SDPB under regulation 27 (prior approval - patterns of treatment).

(3) Where the name of the contractor or dentist concerned in any appeal under paragraph (2) is included in the dental list of more than one Health Board, the appeal may be made—

- (a) in the case of an appeal under paragraph (2)(a), to the appropriate Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (b) in the case of an appeal by a contractor under paragraph (2)(b) to the appropriate Health Board in whose area the treatment or intended treatment of the patient is or would be provided;
- (c) in the case of an appeal by a dentist under paragraph (2)(c)—
 - (i) in which the decision of the SDPB under regulation 27 was based on its opinion that the dentist's pattern of treatment in question differed substantially from the local

pattern of treatment of other dentists, to the appropriate Health Board in whose area the pattern of treatment of other dentists has been the subject of comparison; or

- (ii) in which the decision of the SDPB under regulation 27 was based on its opinion that the dentist's pattern of treatment in question differed substantially from the pattern of treatment of other dentists throughout Scotland, to any of the Health Boards in whose dental list the dentist's name is included,

and the Health Board to which the appeal is made is referred to in this regulation as "the relevant Health Board".

(4) For the purposes of this regulation, the parties to an appeal are the SDPB and the appellant, being the aggrieved person, or contractor or dentist as the case may be.

(5) Notice of appeal shall—

- (a) be given to the relevant Health Board in writing;
- (b) except where the relevant Health Board is satisfied that the lateness of the appeal is due to illness or other reasonable cause, be given within 4 weeks from the date on which the appellant received notice of the decision of the SDPB;
- (c) state the date on which the appellant was informed of that decision; and
- (d) contain a concise statement of the facts and contentions upon which it is intended to rely.

(6) The relevant Health Board shall, within 4 weeks from the date of receipt of the notice of appeal, request from the SDPB a written statement of the reasons for its decision and the SDPB shall, within 4 weeks from the date of receipt of that request, send such a statement to the relevant Health Board.

(7) Subject to paragraph (8), the relevant Health Board shall consider the notice of appeal and the statement of the SDPB and—

- (a) where the appeal is against a refusal of the SDPB to approve an estimate or claim for remuneration on the ground that the services to which the estimate or claim relate cannot be provided as part of general dental services, it shall refer the notice of appeal and the SDPB's statement to the Scottish Ministers, and on referring the appeal the relevant Health Board shall inform the parties of the referral;
- (b) where, in an appeal by a contractor against a decision of the SDPB concerning fees, the SDPB certifies in its statement that it authorised those fees and that they were fees or maximum fees prescribed by Determination I of the Statement of Dental Remuneration for the services provided or to be provided, the relevant Health Board shall dismiss the appeal forthwith unless it is of the opinion that it involves a dispute as to the item or sub-item of treatment in that Determination applicable to those services;
- (c) except where an appeal is dismissed or referred in accordance with the preceding provisions of this paragraph, the relevant Health Board shall, within 4 weeks from the date of receipt of the SDPB's statement, appoint—
 - (i) where the appeal is made under paragraph (2)(c), 3 dentists, and where such an appeal is made in connection with orthodontic treatment, one of the dentists shall be an orthodontist;
 - (ii) in an appeal under paragraph (2)(a) or (b), 2 dentists, and where such an appeal is made in connection with orthodontic treatment, one of the dentists shall be an orthodontist; and
 - (iii) a chairperson who is not a dentist and who may be legally qualified,as referees to determine the appeal.

- (d) the relevant Health Board shall select one of the dentists from a panel of dental practitioners who are engaged in the provision of general dental services and who is

nominated by the area dental committee, failing which the area dental committee for the area of another Health Board.

(8) Where, after considering the notice of appeal and the statement of the SDPB, the relevant Health Board is of the opinion that the notice of appeal discloses no reasonable grounds of appeal or that the appeal is otherwise trivial or vexatious, the relevant Health Board may determine the appeal by dismissing it forthwith.

(9) Where the relevant Health Board dismisses an appeal under paragraph (7) or (8), it shall—

- (a) send the parties a copy of the decision together with its reasons for it; and
- (b) in the case of a dismissal under paragraph (7)(b), send the appellant a copy of the SDPB's statement.

(10) Where an appeal is referred to the Scottish Ministers under paragraph (7)(a), the Scottish Ministers shall—

- (a) determine the appeal in such manner as they think fit; and
- (b) as soon as may be practicable after they have determined the appeal, which shall be final and conclusive, send the parties and the relevant Health Board a copy of their decision together with their reasons for it.

(11) Where, under paragraph (7)(c), the relevant Health Board appoints referees to determine the appeal, the Health Board shall—

- (a) fix a date for the hearing of the appeal;
- (b) at least 2 weeks before the hearing (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;
- (c) at least 7 days before the hearing (or within such shorter period as the parties may agree), provide—
 - (i) the referees and the appellant with a copy of the SDPB's statement; and
 - (ii) the referees and the SDPB with a copy of the notice of appeal.

(12) Where the parties to an appeal, to whom notice of a hearing has been sent under paragraph (11), notify the relevant Health Board in writing prior to the date of the hearing, that they do not intend to make oral representations at a hearing—

- (a) the relevant Health Board shall inform the referees forthwith; and
- (b) the referees shall thereafter determine the appeal without holding a hearing.

(13) Subject to paragraph (14), if in the course of a hearing a party introduces any issue which in the opinion of the referees was not sufficiently disclosed in the notice of appeal by the appellant or statement by the SDPB, the referees may as they think fit admit or refuse to admit such issue.

(14) Where the referees intend to admit an issue under paragraph (13), the hearing shall be adjourned for such period as the referees consider necessary unless the other party requests that the hearing should proceed and the referees agree to do so.

(15) As soon as may be practicable after being informed that—

- (a) a hearing is not necessary; or
- (b) a hearing has been held,

the referees shall determine the appeal and notify the relevant Health Board in writing of their decision, which shall be final and conclusive, and their reasons for it.

(16) After the relevant Health Board receives notice of the referees' decision under paragraph (15), they shall, within 2 weeks from the date of receipt of that notice, send a copy of it to each of the parties.

PART VII

MISCELLANEOUS

Publication of particulars

30. Copies of the dental list, the local directory of dentists (as defined in regulation 9), these Regulations including the terms of service, the lists of listed drugs and the Statement of Dental Remuneration shall be kept revised and up to date and shall be made available for inspection at the offices of the Health Board and such other places in the Health Board's area as appear to the Health Board to be convenient.

Service of notices etc

31.—(1) Any notice or document which is required or authorised by these Regulations to be sent to or served on any person or body may be sent or served as follows—

- (a) in the case of the Scottish Ministers, by delivering it to them or sending it by post addressed to them at St Andrew's House, Edinburgh;
- (b) in the case of a Health Board, by delivering it to the Chief Executive or by sending it by post addressed to the Chief Executive at the Health Board's principal office;
- (c) in the case of a dentist, by delivering it to the dentist or by sending it by post addressed to the dentist at the practice premises stated in the dental list, or the dentist's private address;
- (d) in the case of a body corporate, by delivering it or sending it by post to the body corporate's registered office, or to its practice premises stated in the dental list;
- (e) in the case of any other person, by delivering it to that person or by sending it by post addressed to that person at that person's usual or last known address.

(2) Unless the contrary is proved, any notice or document sent in accordance with this regulation shall be deemed to be received at the time at which a letter would be delivered in the ordinary course of post.

Signatures

32.—(1) With the exception of claims submitted by computer in accordance with the provisions of paragraph 20(2) of Schedule 1, and estimates submitted by computer in accordance with the provisions of paragraph 29(2) and (3) of Schedule 1, any signature required by these Regulations (including the terms of service) shall be in handwriting and not by means of a stamp and the name and position of the signatory shall be clearly stated.

(2) Any signature required by these Regulations shall be the signature of the relevant dentist or, in the case of a body corporate, a director.

Revocations, savings and transitional provisions

33.—(1) Subject to paragraphs (2) and (3), the Regulations specified in Schedule 7 ("the revoked Regulations") are hereby revoked.

(2) In respect of any general dental services provided under the revoked Regulations, payments shall be made as though the revoked Regulations and determinations made under them and in force at the relevant time continue to be in force as regards those services.

- (a) (3) (a) Sub-part A of the first part of a Health Board's dental list on 2nd July 2010 shall be deemed to include the name of any dentist whose name was included in Part A of the dental list of that Health Board kept under regulation 4(1A) (dental list) of the

1996 Regulations⁽⁴⁴⁾ (“the previous dental list”) on 1st July 2010, together with all the information relating to that person which is contained in the previous dental list;

- (b) sub-part B of the first part of a Health Board’s dental list on 2nd July 2010 shall be deemed to include the name of any dentist whose name was included in Part B of the dental list of that Health Board kept under regulation 4(1B) (dental list) of the 1996 Regulations (“the previous dental list”) on 1st July 2010, together with all the information relating to that person which is contained in the previous dental list;
- (c) a dentist whose name is deemed to be included in a Health Board’s dental list by virtue of sub-paragraphs (a) or (b) shall be bound by the terms of service in these Regulations.

(4) Any action taken by or on behalf of a Health Board before 2nd July 2010 in relation to its previous dental list (or in relation to the persons or entries thereon), shall have effect on and after 2nd July 2010 as if such action had been taken by that Health Board in relation to the first part of the dental list maintained by that Health Board on 2nd July 2010 or in relation to the persons or entries thereon; however this paragraph shall not have the effect of extending any time limit or period which governed any such action under the 1996 Regulations when such action is deemed to have taken place on 2nd July 2010.

(5) Any action taken by or on behalf of any other person before 2nd July 2010 in relation to the previous dental list of a Health Board (or in relation to the persons or entries thereon) shall have effect on and after 2nd July 2010 as if such action had been taken in relation to the first part of the dental list maintained by that Health Board on 2nd July 2010 or in relation to the persons or entries thereon; however this paragraph shall not have the effect of extending any time limit or period which governed any such action under the 1996 Regulations when such action is deemed to have taken place on 2nd July 2010.

(6) Any dentist whose name is deemed to be included in the dental list of a Health Board in terms of paragraph (3) shall no later than 1st October 2010—

- (a) submit to the Health Board in whose area the dentist derives most income from general dental services an enhanced criminal certificate in relation to that dentist dated not earlier than 28 days before the date of the submission to the Health Board;
- (b) for a dentist in sub-part A of the first part of a dental list provide the Health Board with the information, declarations, certificate, undertakings and consents specified in Part IA of Schedule 2 and the information contained therein insofar as this has not already been provided; and
- (c) for a dentist in sub-part B of the first part of a dental list provide the Health Board with the information, declarations, certificate undertakings and consents specified in Part IB of Schedule 2 and the information contained therein insofar as this has not already been provided.

(7) A Health Board which receives an enhanced criminal certificate under paragraph (6)(a) shall share the information contained in the certificate with any other Health Board in whose area the dentist provides general dental services.

(8) The Health Board may extend the period prescribed in sub-paragraph (6) for such time as it considers appropriate in the circumstances of the case if it thinks it is not reasonably practicable for that dentist to provide it with such certificate, declarations and consent within the prescribed period.

(9) Any dentist who wishes to be included in the second part of a Health Board’s dental list shall be entitled to assist in the provision of general dental services in the Health Board’s area without the name of that person being included in that list until 1st October 2010.

(44) S.I. 1996/177.

(10) The provisions of this regulation are without prejudice to the provisions of section 16 or 17 of the Interpretation Act 1978⁽⁴⁵⁾.

Consequential Amendments

34. The provisions listed in Schedule 8 are amended as specified in that Schedule.

Schedules

35. Schedules 3 (information to be provided about care and treatment under general dental services), 4 (prior approval of care and treatment) and 5 (information to be included in patient information leaflets) shall have effect.

St Andrew's House,
Edinburgh
20th May 2010

SHONA ROBISON
Authorised to sign by the Scottish Ministers