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SCOTTISH STATUTORY INSTRUMENTS

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**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<sup>(1)</sup>;

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

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

“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<sup>(4)</sup>;

“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

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(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<sup>(5)</sup> 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<sup>(6)</sup>;
- “conditional disqualification” has the same meaning as in section 29C(1) of the Act<sup>(7)</sup> 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<sup>(8)</sup>;
- “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;

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(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<sup>(9)</sup>;

“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<sup>(10)</sup>;

“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<sup>(11)</sup>;

“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)<sup>(12)</sup> of the Act;

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

<sup>(10)</sup> S.S.I. 2008/312.

<sup>(11)</sup> 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).

<sup>(12)</sup> 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;

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(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;

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(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.

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- (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.