

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – Dental and Medical Services

Dental services: miscellaneous

Section 181: Abolition of Dental Practice Board

419. *Section 181* provides for the abolition of the Dental Practice Board. A Special Health Authority is to be established under section 11 of the 1977 Act by the Secretary of State and the Assembly. The new Special Health Authority will be a cross border Special Health Authority undertaking functions in relation to both England and Wales. The assets, liabilities and staff (subject to consultation) of the DPB will be transferred under section 11 powers to the new Special Health Authority.

Section 182: Special Health Authorities

420. *Subsection (1)* amends section 16B of the 1977 Act in relation to the exercise of functions by PCTs. An Order may provide for the transfer to a Special Health Authority of the rights and liabilities of a PCT under a GDS contract where the Special Health Authority is to exercise functions on its behalf, and for transfer back should that function cease. *Subsection (2)* makes similar provisions in relation to LHBs in Wales.
421. For example, a GDS contract may provide for payments to dentists under such a contract to be made by the new Special Health Authority rather than PCTs. This section would allow an Order to provide for the Special Health Authority to take on the PCT's contractual responsibility for the payments it makes under the contract.

Section 183: Charges for dental services

422. *Section 183* inserts a new *section 79* and a new *Schedule 12ZA* to the 1977 Act replacing sections 78A, 79 and 79A which linked the calculation of dental charges to the remuneration of a dental practitioner. *Section 183(3)* provides that the first regulations made under new *section 79* shall be subject to approval by resolution of each House of Parliament.
423. New *section 79(1)* provides for regulations to prescribe the way in which patient charges can be made and recovered for dental services. New *section 79(2)* provides that regulations made under new *section 79(1)*, may for example, set a maximum charge and exempt certain treatments from a charge. New *section 79(5)* ensures that charges apply to all primary dental services whether provided under a GDS contract, PDS or by the PCT/LHB, and to dental appliances under other Part 1 services. New *section 79(3)* enables regulations made under new *section 79(1)* to provide for the amount that PCTs, LHBs or Special Health Authorities recompense dental clinics or practices and that this

These notes refer to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) which received Royal Assent on 20 November 2003

amount may be reduced by the amount that has been collected in patient charges by that clinic or practice.

424. *Schedule 12ZA* maintains the same exemptions from dental charges as under the provisions previously set out in old section 79 and Schedule 12 of the 1977 Act. *Paragraphs 1, 2, 4 and 6* of new *Schedule 12ZA* set out the circumstances in which dental charges will not apply. *Paragraph 2* makes it clear that, normally, charges will not apply to the replacement or repair of appliances. *Paragraph 3* provides that charges will, however, apply to the repair or replacement either of prescribed appliances, or of appliances which need to be repaired or replaced because of something that person supplied with the appliance has done (or where that person is under 16, something that their parent or guardian has done). Dental appliances will be free of charge when provided by a hospital for its in-patients (*paragraph 4*). However, if dental appliances are provided for a hospital in-patient under GDS or PDS contracts or by a PCT as part of Primary Care Trust Dental Services, then the normal charges will apply (*paragraph 5*).
425. *Paragraph 7* of new *Schedule 12ZA* enables regulations to prescribe the evidence that must be provided when a patient claims an exemption from charge. For example, a patient may be required to provide a birth certificate or FP92 Maternity Exemption Certificate issued through the Prescription Pricing Authority in England.
426. *Section 183(4)* provides for charges to apply to dentures and dental appliances provided in accordance with PDS pilot schemes following the coming into force of new *section 79* of the 1977 Act, but before the abolition of PDS piloting under *section 178* above.