
STATUTORY INSTRUMENTS

1992 No. 641 (S.67)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (General Dental Services) (Scotland) Amendment Regulations 1992

<i>Made</i>	- - - -	<i>10th March 1992</i>
<i>Laid before Parliament</i>		<i>11th March 1992</i>
<i>Coming into force</i>	- -	<i>1st April 1992</i>

The Secretary of State, in exercise of the powers conferred on him by sections 4(1), (1A), (1B) and (2), 25(1), (2) and (2B), 70(1A), 71(1), 71A, 75, 105(7) and 108(1) of, and paragraphs 2(6) and 3(3) and (5) of Schedule 11 to the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, and after consulting with such organisations as appear to him to be representative of persons providing general dental services and of the dental profession in accordance with section 4(1B) of the said Act of 1978, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) (Scotland) Amendment Regulations 1992 and shall come into force on 1st April 1992.

(2) In these Regulations, the “principal Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1974(2).

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- (1) 1978 c. 29; section 4(1) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), Schedule 3; subsections (1A) and (1B) of section 4 were inserted by the 1988 Act, section 12(3); section 25(2) was amended by S.I. 1981/432, article 4(3), by the 1988 Act, Schedule 2, paragraph 11 and by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 40(2) and Schedule 9, paragraph 19(6) and was extended by section 17 of the 1988 Act; section 25(2B) was inserted by the 1990 Act, section 40(3); section 25(3) was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), Schedule 6, paragraph 4 and Schedule 7; section 28(1) was amended by the National Health Service (Amendment) Act 1986 (c. 66), section 3(4); section 70(1A) was inserted by the 1988 Act section 11(4); section 71(1) was amended by the 1988 Act, section 11(5) and Schedule 3; section 71A was inserted by the 1988 Act, section 11(6); section 105(7), which was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 9, paragraph 24, contains provisions relevant to the making of Regulations; section 108(1) contains a definition of “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 2 of Schedule 11 was amended by the 1980 Act, Schedule 5, paragraph 6, and by the 1988 Act, section 11(8) and Schedule 2, paragraph 15 and Schedule 3; paragraph 3(4) of Schedule 11 was amended by the 1980 Act, Schedule 5, paragraph 7(2); paragraph 3(5) of Schedule 11 was amended by the 1980 Act, Schedule 5, paragraph 7(3).
- (2) S.I. 1974/505; relevant amending instruments are S.I. 1974/2048, 1981/900, 1984/1491, 1985/1552, 1987/1634, 1989/363, and 851, 1990/1772, 1991/569 and 1349 and 1992/16.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) for the definition of “associateship agreement” there is substituted the following definition:—

““associateship agreement” means an agreement between dentists practising as principals—

- (a) to which there are two parties, not being partners of each other; and
- (b) whereby one party is liable to provide, for financial consideration, the use of some or all premises and of some or all facilities for the provision of general dental services by the other party;”.

Amendment of regulation 4 of the principal Regulations

3. There is inserted at the end of paragraph (2) of regulation 4 of the principal Regulations (dental list) the following:—

“and the Health Board shall determine the application within 14 days of the date of its receipt, or where they consider the proposed practice premises should be inspected, within 14 days of the date of that inspection.”.

Amendment of regulation 4A of the principal Regulations

4. There is substituted for regulation 4A of the principal Regulations (restrictions on the right to be included in a dental list) the following regulation:—

“Restrictions on the right to be included in a dental list

4A.—(1) A dentist shall not be entitled to have his name included in the dental list prepared by any Health Board where the circumstances specified in paragraph (2) apply.

(2) The circumstances referred to in paragraph (1) are—

- (a) if the dentist has previously withdrawn his name from the dental list prepared by any Health Board or any list prepared pursuant to section 36(1)(a) of the National Health Service Act 1977⁽³⁾ in circumstances where the Secretary of State has certified for the purposes of regulation 10(4) of the National Health Service (Superannuation) (Scotland) Regulations 1980⁽⁴⁾ or, as the case may be, regulation 8(7) of the National Health Service (Superannuation) Regulations 1980⁽⁵⁾ that, in the interests of the efficiency of general dental services, he should cease to provide such services; or
- (b) if the Health Board is not satisfied following an inspection that the proposed practice premises meet the requirements of paragraph 33 of Schedule 1.”.

Amendment of regulation 6 of the principal Regulations

5. There are substituted for paragraph (5) of regulation 6 of the principal Regulations (removal from dental list) the following paragraphs:—

“(5) In calculating the period of 6 months referred to in paragraph (2) there shall be disregarded any period during which—

- (i) the dentist was performing relevant service;

(3) 1977 c. 49; section 36 was re-numbered to become section 36(1) by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 5(1).

(4) S.I. 1980/1177, to which there are amendments not relevant to these Regulations.

(5) S.I. 1980/362; the relevant amending instrument is S.I. 1981/1205.

- (ii) the dentist was on maternity leave; or
 - (iii) the dentist was unable to provide general dental services because of sickness.
- (6) In this regulation—
 - (a) “relevant service” means—
 - (i) whole-time service in the armed forces of the Crown in a national emergency as volunteer or otherwise; or
 - (ii) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
 - (iii) any equivalent service by a person liable for compulsory whole-time service in those forces; and
 - (b) “maternity leave” means the period of one year beginning with the date of confinement.
- (7) Nothing in this regulation shall prejudice any right of a dentist to have his name included again in a dental list.”.

Amendment of regulation 7 of the principal Regulations

- 6.—(1) There is inserted in regulation 7 of the principal Regulations (withdrawal from dental list) between the figure “7” and the words “A dentist” the figure “(1)”;
- (2) There is inserted at the end of regulation 7 the following paragraph:—
 - “(2) The provisions of this regulation shall not apply in the case of a dentist who has reached an age at which the following 1st April his name shall be removed from the dental list in accordance with regulation 6A.”.

Insertion of regulations 8A and 8B into the principal Regulations

- 7. After regulation 8 of the principal Regulations (arrangements to complete care and treatment) there are inserted the following regulations:—

“Emergency cover

8A. 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 its dental list to comply with his obligation under paragraph 6 of Schedule 1.

Health Board patient information leaflets

8B. A Health Board shall compile and, from 1st October 1992, make available to any person who may reasonably require one, a document about the provision of general dental services by salaried dentists in its area (in this regulation called a “Health Board patient information leaflet”) which shall include the information specified in Schedule 1E.”.

Amendment of regulation 12A of the principal Regulations

- 8. In regulation 12A of the principal Regulations (prior approval patterns of treatment)—
 - (a) in paragraph (2)(b) for the words “centimetres square” there are substituted the words “square centimetres”; and
 - (b) after paragraph (6) there are inserted the following paragraphs:

“(6A) Where, on the date on which the Board 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 next day on which his name is again included in a dental list.

(6B) 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.”.

Amendment of regulation 20 of the principal Regulations

9. In regulation 20 of the principal Regulations (exercise of choice of dentists in certain cases) after paragraph (c) there are inserted the following paragraphs:—

- “(d) in the care of a voluntary organisation by that organisation or a person duly authorised by them;
- (e) on behalf of any person detained in a prison, remand centre or young offenders institution by a person authorised by the Secretary of State.”.

Amendment of regulation 36 of the principal Regulations

10. Regulation 36 of the principal Regulations (amounts and time of payments in consequence of suspension) shall be amended as follows:—

- (a) in paragraph (1)(a)(i) for “£2,478” there is substituted “£2,984”;
- (b) in paragraph (1)(a)(ii) for “£1,239” there is substituted “£1,492”;
- (c) in paragraph (1)(b)(i) for “£1,239” there is substituted “£1,492”;
- (d) in paragraph (1)(b)(ii) for “£2,478” there is substituted “£2,984”; and
- (e) in paragraph (2) for “£126,755” in both places where it occurs there is substituted “£142,242”.

Amendment of Schedule 1 to the principal Regulations

11.—(1) Schedule 1 to the principal Regulations shall be amended in accordance with the following paragraphs of this regulation.

(2) In sub-paragraph (3) of paragraph 7 for heads (b) and (c) there is substituted the following:—

- “(b) the dentist advised the patient at the time of the restoration and indicated on the plan for treatment provided to the patient in accordance with paragraph 4(1)(b) or (c) or 5(1) (c) or (d) and on the patient record that—
 - (i) the restoration was intended to be temporary in nature; or
 - (ii) in his opinion, a different form of restoration was more appropriate to secure oral health but, notwithstanding that advice, the patient insisted on the restoration which was provided;”.

(3) For sub-paragraph (b) of paragraph 10 there is substituted the following:—

- “(b) use his best endeavours to complete satisfactorily before that date any care and treatment which the dentist has agreed to provide for the patient and which is outstanding and any further treatment that may be necessary to secure and maintain his oral health.”.

(4) In paragraph 11 for sub-paragraphs (2), (3) and (4) there are substituted the following:—

- “(2) Where a dentist gives notice under sub-paragraph (1), he shall use his best endeavours to complete satisfactorily before the termination of the arrangement any care and

treatment which the dentist has agreed to provide for the patient and which is outstanding and any further treatment that may be necessary to secure and maintain his oral health.

(3) Where a dentist gives notice under sub-paragraph (1), he shall notify the Health Board accordingly and give details to the Health Board of any care and treatment which the dentist has agreed to provide to the patient and which is outstanding including any arrangements made for completion of that care and treatment.

(4) Where a dentist wishes a continuing care arrangement or a capitation arrangement to be terminated on less than 3 months' notice, he shall apply in writing to the Health Board—

- (a) asking that it terminate the arrangement;
- (b) setting out the reasons why he wishes the arrangement to be terminated; and
- (c) giving details of any care and treatment which the dentist has agreed to provide for the patient and which is outstanding including any arrangements made for completion of that care and treatment.”.

(5) In sub-paragraph (3) of paragraph 13 for heads (b) and (c) there is substituted the following:—

“(b) the dentist advised the patient at the time of the restoration and indicated on the plan for treatment provided to the patient in accordance with sub-paragraph (1)(b) or (c) and on the patient record that—

- (i) the restoration was intended to be temporary in nature; or
- (ii) in his opinion, a different form of restoration was more appropriate but, notwithstanding that advice, the patient insisted on the restoration which was provided;”.

(6) In sub-paragraph (2) of paragraph 16 (occasional treatment)—

(i) for head (a) there is substituted the following:—

- “(a) examination (including advice);
- (aa) not more than 2 extractions of permanent teeth;”;

(ii) in heads (n), (o) and (p) for “(a)” where it occurs on each occasion there is substituted “(aa)”.

(7) For paragraph 19 (general anaesthesia) there is substituted the following:—

“General anaesthesia and sedation

19.—(1) Where a dentist undertakes, in the course of providing general dental services, any procedure for which general anaesthesia of the patient is necessary he shall arrange—

- (a) for a doctor or another dentist experienced in the administration of general anaesthesia to administer the general anaesthetic and to remain with the patient throughout the procedure and until the return of the patient’s protective reflexes; or
- (b) for another person with suitable training and experience to remain with the patient until the recovery phase is complete.

(2) Where a dentist undertakes, in the course of providing general dental services, any procedure for which sedation of the patient is necessary he shall remain with the patient and arrange for another person with suitable training and experience to remain with the patient throughout the procedure.

(3) In this paragraph “a person with suitable training and experience” means a person who has received such training and experience as to be capable of assisting the dentist in monitoring the clinical condition of the patient and in the event of an emergency.”.

(8) In sub-paragraph (2) of paragraph 23 (records) for the words and figures “12 months” there is substituted “2 years”.

- (9) In paragraph 24 (prior approval of treatment)—
- (a) in sub-paragraph (7) for the words from “approval” to the end there are substituted the words “within 7 days of the commencement of the care and treatment.”; and
 - (b) in sub-paragraphs (8)(b) and (9)(b) for the words “centimetres square” there are substituted the words “square centimetres”.
- (10) After sub-paragraph (3) of paragraph 29 (patient information leaflets) there is inserted the following sub-paragraph:—
- “(4) The requirements of sub-paragraph (1) shall not apply to any dentist who provides general dental services only to persons detained in a prison, remand centre or young offenders institution.”.
- (11) The words “Part V Additional Terms of Service for Dentists Other than Salaried Dentists” occurring between paragraphs 31 and 32 are deleted and are inserted between paragraphs 32 and 33.
- (12) In sub-paragraph (4) of paragraph 33 (premises etc) after the words “dental officer” there are inserted the words “or a person authorised by the Health Board”.
- (13) After paragraph 37 there is inserted the following paragraph:—

“Dentists suspended under section 28 or 32 of the Dentists Act 1984

37A. Where a dentist’s registration in the register kept under section 14 of the Dentists Act 1984(6) is suspended by a direction or order of the Health Committee under section 28 of that Act (health cases) or by an order under section 32 of that Act (interim suspension order), he shall secure that any dentist appointed by him to provide general dental services on his behalf during that period of suspension shall be a dentist whose name is included in the dental list.”.

- (14) In sub-paragraph (2) of paragraph 40 (records) there are inserted at the end the words “within 7 days of the date of the request”.
- (15) After paragraph 41 (drugs) there is inserted the following paragraph:—

“Provision of Health Board patient information leaflets

41A. A salaried dentist shall make available to any person who may reasonably require one the Health Board patient information leaflet compiled by the Health Board pursuant to regulation 8B.”.

Insertion of Schedule 1E to the principal Regulations

12. After Schedule 1D to the principal Regulations there is inserted Schedule 1E set out in the Schedule to these Regulations.

St. Andrew’s House,
Edinburgh
10th March 1992

Michael B. Forsyth
Minister of State, Scottish Office

SCHEDULE

Regulation 12

SCHEDULE 1E TO BE INSERTED IN THE PRINCIPAL REGULATIONS

“SCHEDULE 1E

Regulation 8B

INFORMATION TO BE INCLUDED IN HEALTH BOARD PATIENT INFORMATION LEAFLETS

1. The following personal and professional details of any salaried dentist providing general dental services at a health centre:—
 - (a) name.
 - (b) sex.
 - (c) date of registration as a dental practitioner in the register kept under section 14 of the Dentists Act 1984(7) and details of dental qualifications registerable under that Act.
2. The following additional information about the provision of general dental services at health centres:—
 - (a) The addresses of all the health centres within its area at which general dental services are provided.
 - (b) Particulars of the days and hours when at the health centre general dental services are provided, and where a Health Board make arrangements for a salaried dentist to provide general dental services at a mobile surgery, particulars of the places visited regularly by the salaried dentist and the times of those visits.
 - (c) The names of all salaried dentists and dentists undertaking emergency dental services at the health centre.
 - (d) Whether a dental hygienist is employed at the health centre.
 - (e) Whether there is access to the dental surgery at the health centre without the use of stairs.
 - (f) Whether the health centre (including the dental surgery and toilets) is accessible to wheelchairs.
 - (g) Provided the salaried dentist consents to their inclusion, details of any languages other than English, spoken by the salaried dentist.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Dental Services) (Scotland) Regulations 1974 (“the principal Regulations”) which regulate the terms on which general dental services are provided under the National Health Service (Scotland) Act 1978. The principal changes made by these Regulations are as follows.

(7) 1984 c. 24.

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

Regulation 4 amends regulation 4A of the principal Regulations to provide that a Health Board may refuse an application by a dentist to have his name included in the dental list if the Board are not satisfied, following an inspection, that the proposed practice premises meet the requirements of the Regulations.

Regulation 5 amends regulation 6 of the principal Regulations and provides that in calculating a period of six months when a dentist has not practised there shall be disregarded periods during which the dentist was in the armed forces, was on maternity leave or was sick.

Regulation 7 inserts two new regulations (8A and 8B) into the principal Regulations. Regulation 8A provides for a Health Board to make provision for salaried dentists to provide emergency cover. Regulation 8B requires a Health Board to provide, as from 1st October 1992, patient information leaflets in respect of general dental services provided by salaried dentists.

Regulation 10 amends regulation 36 of the principal Regulations to increase by approximately twenty per cent the amounts payable to dentists who are suspended.

Regulation 11 makes various amendments to Schedule 1 to the principal Regulations, including an amendment whereby salaried dentists are permitted to mix general dental services and private care and treatment.

Regulation 12 inserts a new Schedule 1E in the principal Regulations concerning patient information leaflets on salaried dentists.