

**2001 No. 2421**

**NATIONAL HEALTH SERVICE, ENGLAND AND WALES**

**The National Health Service (General Dental Services) Amendment (No. 5) Regulations 2001**

<i>Made</i> - - - - -	<i>5th July 2001</i>
<i>Laid before Parliament</i>	<i>6th July 2001</i>
<i>Coming into force</i> - -	<i>1st August 2001</i>

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 15(1), 35(1), 36(1), 37(1) and 126(4) of the National Health Service Act 1977(a) hereby makes the following Regulations:

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) Amendment (No. 5) Regulations 2001 and shall come into force on 1st August 2001.

(2) In these Regulations “the principal Regulations” means the National Health Service (General Dental Services) Regulations 1992(b).

(3) The extent of these Regulations is as follows—

- (a) this regulation extends to England and Wales,
- (b) regulations 2 and 4 and the Schedule extend to England only, and
- (c) regulation 3 extend to Wales only.

**Amendment of the principal Regulations**

2.—(1) In regulation 2(1) of the principal Regulations (interpretation), omit the definition of “FHSA”.

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(a) 1977 c. 49; *see* section 128(1), as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i); and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 38(2), for the definitions of “prescribed” and “regulations”. Section 15(1) was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 5(2); by the 1990 Act, section 12(1) and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 6. Section 35(1) was substituted by S.I. 1985/39, article 7(9), and amended by the 1995 Act, Schedule 1, paragraph 24. Section 36(1) was so numbered by the 1984 Act, Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(10); by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 4; by the 1990 Act, section 24 and by the 1995 Act, Schedule 1, paragraph 25(a). Section 37(1) (so numbered by the 1988 Act), section 12(2) was amended by the Health Services Act 1980 (c. 53), section 1 and Schedule 1, paragraph 50; modified by section 12(1) of the 1988 Act and amended by that Act, Schedule 3; and amended by the 1995 Act, Schedule 1, paragraph 26. Section 126(4) was amended by the 1990 Act, section 65(2); and by the 1999 Act, Schedule 4, paragraph 37(6). As regards Wales, the functions of the Secretary of State under sections 15, 35, 36 and 126(4) of the 1977 Act were transferred to the National Assembly for Wales under the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, but not his functions under section 37(1) of the 1977 Act. In these Regulations, regulations 2 and 4 and the Schedule extend to England only and regulation 3 extends to Wales only.

(b) S.I. 1992/661; relevant amending instruments are S.I. 1993/2209, 1993/3172, 1995/3092, 1996/704, 1996/2051, 1998/1648, 1998/2224, 2000/2459, 2001/289 and 2001/1746.

(2) In the provisions of the principal Regulations listed in the Schedule to these Regulations—

- (a) for “FHSA” wherever it appears substitute “Health Authority”,
- (b) for “An” whenever it appears immediately preceding “FHSA” substitute “A”, and
- (c) for “an” whenever it appears immediately preceding “FHSA” substitute “a”.

3. In regulation 20 (approval of payments by Dental Practice Board) in paragraph (4) for “VIII and IX” substitute “VIII, IX and X”.

4. In paragraph 17 of Schedule 1 to the principal Regulations (occasional treatment)(a)—

(a) for head (m) of sub-paragraph (2) substitute—

“(m) conservative treatment of permanent or retained deciduous teeth by way of fillings or root fillings,” and

(b) after sub-paragraph (3) insert—

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

(5) A dentist shall not be under an obligation to repair or replace any filling under sub-paragraph (2)(m) where—

(a) within 12 months of the date on which the filling was provided—

(i) a dentist has provided private treatment, or

(ii) another dentist has provided occasional treatment otherwise than of a temporary nature,

on the tooth in respect of which the filling was provided;

(b) the dentist advised the patient at the time of the filling and indicated on the patient record—

(i) that the filling was intended to be temporary in nature; or

(ii) that, in his opinion, a different form of filling was more appropriate but, notwithstanding that advice, the patient insisted on the filling which was provided;

(c) in the opinion of the dentist, the condition of the tooth in respect of which the filling was provided is such that the filling cannot satisfactorily be repaired or replaced and different treatment is now required; or

(d) the repair or replacement is required as a result of trauma.

(6) The obligation to repair or replace any filling under sub-paragraph (2)(m) shall cease 12 months after the date on which the filling was provided.”.

Signed by authority of the Secretary of State for Health

5th July 2001

*Hazel Blears*  
Parliamentary Under-Secretary of State  
Department of Health

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(a) Paragraph 17 was previously amended by S.I. 1992/1509 and fully substituted by S.I. 2001/1746, regulation 2.

## SCHEDULE

Regulation 2(2)

In the list headed “Arrangement of Regulations”, the entry for regulation 16.

In regulation 2(1) (interpretation), the definitions “Local Dental Committee”, “locality”, “patient record”, “practice record form” and “salaried dentist”.

Regulation 3 (terms of service).

Regulation 4 (dental list)(a).

Regulation 5A (applications for vocational training numbers and notices of refusal to include in dental list)(b).

Regulation 5C (procedure on appeal)(c).

Regulation 6 (local directory of dentists).

Regulation 7 (restrictions on the right to be included in a dental list)(d).

Regulation 8 (removal from dental list)(e).

Regulation 9 (removal from dental list on grounds of age).

Regulation 10 (withdrawal from dental list).

Regulation 11 (information about assistants).

Regulation 12 (information about associateship agreements).

Regulation 13 (transfer of continuing care and capitation arrangements)(f).

Regulation 14 (emergency dental services).

Regulation 15 (arrangements for emergency cover).

The heading to, and regulation 16 (FHSA patient information leaflets).

Regulation 21 (drugs).

Regulation 22 (recovery of overpayments)(g).

Regulation 24 (entitlement to payments)(h).

Regulation 25 (application for payments).

Regulation 26 (amount and time of payments).

Regulation 27 (changes to circumstances).

Regulation 28 (overpayments)(i).

Regulation 29 (prior approval-patterns of treatment)(j).

Regulation 31 (publication of documents).

Regulation 32 (service of documents)(k).

In Schedule 1 (terms of service for dentists)—

- (a) in the list headed “Arrangement of paragraphs” the entry for paragraph 43,
- (b) paragraphs 4, 5(l), 8, 9(m), 11(n), 13, 15, 26, 27(o), 32, 33, 35(p), 39, 40, 41 and 42,
- (c) the heading to, and paragraph 43, and
- (d) paragraph 44.

In Schedule 2 (information and undertaking to be included in an application for inclusion in the dental list), paragraphs 8 and 9.

In Schedule 6 (information to be included in FHSA patient information leaflets), the heading, and paragraph 2.

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(a) Regulation 4 was amended by S.I. 1995/3092, 1998/1648 and 2001/289.

(b) Regulation 5A was inserted by S.I. 1993/2209 and amended by S.I. 1993/3172, 1998/1648 and 1998/2224.

(c) Regulation 5C was inserted by S.I. 1993/2209 and amended by S.I. 1993/3172.

(d) Regulation 7 was amended by S.I. 1993/2209.

(e) Regulation 8 was amended by S.I. 1995/3092, and 1998/2224.

(f) Regulation 13 was amended by S.I. 1995/3092.

(g) Regulation 22 was amended by S.I. 1996/704.

(h) Regulation 24 was amended by S.I. 1995/3092.

(i) Regulation 28 was amended by S.I. 1996/704.

(j) Regulation 29 was amended by S.I. 1996/704.

(k) Regulation 32 was substituted by S.I. 1993/2209.

(l) Paragraphs 4 and 5 were amended by S.I. 1996/2051.

(m) Paragraphs 8 and 9 were amended by S.I. 1995/3092 and 1996/2051.

(n) Paragraph 11 was amended by S.I. 1998/1648.

(o) Paragraph 27 was amended by S.I. 1996/704.

(p) Paragraph 35 was amended by S.I. 1995/3092 and 1996/704.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service (General Dental Services) Regulations 1992 (S.I. 1992/661) (“the 1992 Regulations”) which regulate the terms on which general dental services are provided under the National Health Service Act 1977.

The 1992 Regulations contain many references to FHSAs (Family Health Service Authorities). These were abolished with effect from 1st April 1996 and replaced by Health Authorities. Article 3(2)(a) of the Health Authorities Act 1995 (Amendment of Transitional Provisions and Modification of References) Order 1996 (S.I. 1996/971) provided that as from that date, a reference to an FHSA in an instrument was to be construed as a reference to a Health Authority, unless the context otherwise required, but the Order did not make actual textual changes to instruments containing references to an FHSA. These Regulations amend the 1992 Regulations so that for any reference to an FHSA there is now substituted a reference to a Health Authority (regulation 2 and the Schedule).

The functions of the Secretary of State of making regulations under section 15, 35 and 36 of the National Health Service Act 1997 were transferred to the National Assembly for Wales with effect from 1st July 1999. However, the function of making regulations in respect of the Dental Practice Board was not so transferred. Accordingly, the amendment to regulation 20 of the principal Regulations to include a reference to a new Determination X in the Statement of Dental Remuneration, as it relates to Wales, is effected by these Regulations (regulation 3). (A comparable amendment was made in relation to England by regulation 4 of the National Health Service (General Dental Services) Amendment (No. 3) Regulations 2001 (S.I. 2001/1677).

Where under the terms of service set out in Schedule 1 to the principal Regulations a dentist provides occasional treatment in accordance with paragraph 17 of that Schedule, conservative treatment is restricted to fillings and root fillings but, with certain exceptions, a dentist is obliged to repair or replace such a filling at no charge to the patient up to 12 months after it was provided (regulation 4).

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