

2002 No. 558

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (General Dental Services)
Amendment Regulations 2002**

<i>Made</i> - - - -	<i>11th March 2002</i>
<i>Laid before Parliament</i>	<i>11th March 2002</i>
<i>Coming into force</i>	<i>1st April 2002</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 15(1), 35(1), 36(1) and (4) to (8), 43ZA, 49O, 49Q, 49R and 126(4) of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) Amendment Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations extend to England only.

Amendment of the National Health Service (General Dental Services) Regulations 1992

2. The National Health Service (General Dental Services) Regulations 1992(b) shall be amended in accordance with the following provisions of these Regulations.

Amendment of regulation 5

3. In regulation 5 (application for inclusion in the dental list), for paragraph (3ZA)(a), substitute—

“(a) the information provided by the dentist in accordance with paragraphs 5B and 14 of Schedule 2 and the references provided by the referees nominated by the dentist in accordance with paragraph 11A of that Schedule.”

(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), 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). Sections 36(4) to (8) were inserted by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”). Section 43ZA was inserted by the 2001 Act, section 21. Sections 49O, 49Q and 49R were inserted by the 2001 Act, section 25. The functions of the Secretary of State for Health under the National Health Service Act 1977 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 as amended by section 66(5) of the Health Act 1999 (c.8). See also the 2001 Act, section 68.

(b) S.I. 1992/661; relevant amending instruments are S.I.s 1992/1509, 1995/3092, 1996/2051, 1998/1648, 2001/705, 2001/3741 and 2001/3963.

Amendment of regulation 5ZA

4. In regulation 5ZA (grounds for refusal)—
 - (a) for paragraph (1)(c) substitute—

“(c) that having contacted the referees nominated by the dentist in accordance with paragraph 11A of Schedule 2, they are not satisfied with the references given.”
 - (b) in paragraph (3)(g) for the words from “what the facts were” to the end, substitute—

“the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;”.

Amendment of regulation 5ZB

5. In regulation 5ZB (deferment of decision)—
 - (a) in paragraph (1)(a) for the words from “legal proceedings” to “in the United Kingdom” substitute—

“proceedings in respect of conduct which, if it had occurred in the United Kingdom, would constitute a criminal offence;”;
 - (b) in paragraph (1)(b) for “successful” substitute “adverse”;
 - (c) in paragraph (4) for “must notify the dentist” to the end, substitute—

“shall notify the dentist in writing that he must—
 - (a) update his application within 28 days of the date of the notification (or such longer period as the Health Authority may agree);
 - (b) confirm in writing within the period mentioned in sub-paragraph (a) that he wishes to proceed with his application.”.

Amendment of regulation 5ZD

6. In regulation 5ZD (conditional inclusion)—
 - (a) for paragraph (16) substitute—

“(16) The Health Authority shall notify any person or body of the information specified in paragraph (14) if that person or body can establish that it is employing the dentist in a professional capacity and the Health Authority receives a written request (including an electronic request) from that person or body to do so.”;
 - (b) at the end of paragraph (17) add “relating to that information”.

Amendment of regulation 8B

7. Regulation 8B (criteria for decisions on removal) shall be amended as follows—
 - (a) For paragraph (2)(b) substitute—

“(b) the length of time since any offence, incident, conviction or investigation;”
 - (b) for paragraph (2)(g) substitute—

“(g) whether the dentist has been refused admittance to, conditionally included in, contingently removed, removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;”;
 - (c) for paragraph (4)(b) substitute—

“(b) the length of time since the last incident of fraud occurred, and since any investigation into that incident of fraud was concluded;”;

- (d) in paragraph (4)(e) for “the investigation” substitute “any investigation into the incident of fraud”;
- (e) for paragraph (4)(f) substitute—
 - “(f) whether he has been refused admittance to, conditionally included in, contingently removed, removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action;”;
- (f) for paragraph (6)(a) substitute—
 - “(a) the nature of any incident which was prejudicial to the efficiency of the General Dental Services provided by him;”;
- (g) for paragraph (6)(b) substitute—
 - “(b) the length of time since the last such incident occurred, and since any investigation into that incident was concluded;”.

Amendment of regulation 8D

- 8. In Regulation 8D (notifications by Health Authorities)—
 - (a) in paragraph (1), for “they shall notify the persons or bodies” to the end, substitute “they shall notify the persons and bodies specified in paragraph (2), and shall additionally notify those specified in paragraph (3) if so requested by those persons or bodies in writing (including electronically), of the matters set out in paragraph (4).”.
 - (b) for paragraph (3) substitute—
 - “(3) The persons or bodies to be additionally notified in accordance with paragraph (1) are persons or bodies that can establish that they are considering employing the dentist in a professional capacity.”;
 - (c) at the end of paragraph (5) add “relating to that information”.

Amendment of regulation 8E

- 9. In regulation 8E (procedure on removal), in paragraph (3)(c), omit “calendar”.

Amendment of regulation 8G

- 10. In regulation 8G (procedure on review of Health Authority decision), omit paragraph (1)(e).

Amendment of Schedule 4

- 11. In Schedule 4 (prior approval treatment), in each of paragraphs 1 and 2 of Part II, for “£260” substitute “£375”.

Signed by authority of the Secretary of State for Health

11th March 2002

Hazel Blears
Parliamentary Under Secretary of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

Regulations 3 to 10 make minor amendments to the National Health Service (General Dental Services) Regulations (“the principal Regulations”). Regulation 11 amends Schedule 4 to the principal Regulations to increase from £260 to £375 the amount specified as the maximum cost, or likely cost, of care and treatment which a dentist may undertake without seeking the prior approval of the Dental Practice Board.

As a result of the transfer of certain functions of the Secretary of State in relation to Wales to the National Assembly for Wales, these amendments apply to England only.

£1.75

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E0452 4/02 ON (MFK)