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STATUTORY INSTRUMENTS

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**2006 No. 562**

**The General Dental Services, Personal Dental Services and Abolition of the Dental Practice Board Transitional and Consequential Provisions Order 2006**

**PART 5**

**TRANSITIONAL PROVISIONS: ABOLITION OF THE BOARD**

**Functions of the Board in respect of general dental services**

**38.**—(1) Subject to paragraph (3), the functions of the Board under the 1992 Regulations which are specified in paragraph (2) shall be exercisable by the NHS Business Services Authority in respect of general dental services provided before 1st April 2006.

(2) The specified functions referred to in paragraph (1) are—

- (a) the approval and making of payments under regulation 20;
- (b) the recovery of overpayments under regulation 22;
- (c) the making of any payments under regulation 26(7);
- (d) the consideration of overpayments, notification of overpayments and recovery of such overpayments under regulation 28;
- (e) the payments to dentists suspended by Primary Care Trusts under regulation 28B;
- (f) complying with the request from the Primary Care Trust for a written statement in accordance with regulation 30A(5) of the 1992 Regulations and any steps in the appeal which the Board may have taken before 1st April 2006; and
- (g) the authority to request any records, forms, radiographs, photographs and study models under paragraph 25(3) of Schedule 1 to the 1992 Regulations.

(3) Notwithstanding the revocation of the 1992 Regulations, for the purposes of the NHS Business Services Authority exercising the functions of the Board, the provisions specified in paragraph (2) shall continue to have effect as on 31st March 2006 and references to the Board in those provisions shall be read as a reference to the NHS Business Services Authority.

**Appeals from decisions of the Board**

**39.**—(1) Notwithstanding the revocation of the 1992 Regulations and subject to the following paragraphs, regulation 30A of the 1992 Regulations<sup>(1)</sup> will continue to have effect in respect—

- (a) of a person who is aggrieved by a decision of—
  - (i) the Board made before 1st April 2006, or
  - (ii) the NHS Business Services Authority made after 31st March 2006,

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(1) Regulation 30A is inserted by regulation 4 of [S.I. 1996/704](#).

in respect of the treatment or intended treatment of a patient as part of general dental services before 1st April 2006;

- (b) a dentist who is aggrieved by a decision of—
  - (i) the Board made before 1st April 2006, or
  - (ii) the NHS Business Services Authority made after 31st March 2006,
 concerning fees payable to him in respect of the provision or intended provision of general dental services before 1st April 2006.
- (2) In a case where paragraph (1) applies—
  - (a) the reference in regulation 30A(1) to (3), (6), (10) and (11) of the 1992 Regulations to the Board shall be read as if it were a reference to the Board or the NHS Business Services Authority; and
  - (b) the reference in regulation 30A(5), (8), (9) and (14) of the 1992 Regulations to the Board shall be read as if it were a reference to the NHS Business Services Authority.

#### **Local Dental Committees in respect of appeals**

**40.** Where—

- (a) a Local Dental Committee is to be consulted after 1st April 2006 in accordance with regulation 30A(6)(a) of the 1992 Regulations; or
- (b) a Local Dental Committee is to make a nomination to a panel after 1st April 2006 in accordance with regulation 30A(7) of the 1992 Regulations,

the Local Dental Committee that is recognised by a Primary Care Trust pursuant to section 45B of the 1977 Act shall be the Committee to be consulted or to make the nomination for the purpose of the continuing application of regulation 30A(6) and (7) of the 1992 Regulations.

#### **Functions of the Board in respect of personal dental services**

**41.—**(1) In respect of the provision of personal dental services on or before 31st March 2006, the functions of the Board which are exercisable as a consequence of—

- (a) regulation 2 (information, statistics, reports etc);
- (b) regulation 4 (overpayments); or
- (c) regulation 5 (superannuation),

of the Dental Practice Board (Personal Dental Services) Regulations 1998<sup>(2)</sup> and article 28, notwithstanding the revocation of those Regulations, are to be exercised by the NHS Business Services Authority in accordance with those Regulations and the Directions to the Dental Practice Board Concerning Functions relating to Personal Dental Services Pilot Schemes<sup>(3)</sup> given by the Secretary of State as they had effect on 31st March 2006 and as if the reference in those Regulations and Directions to the Board were a reference to the NHS Business Services Authority.

(2) For the purposes of paragraph (1), regulation 6 of the Dental Practice Board (Personal Dental Services) Regulations 1998 (monitoring dental treatment) shall, notwithstanding the revocation of those Regulations, continue to have effect in respect of treatment or a description of treatment carried out on or before 31st March 2006 as if the reference to the Board in that regulation were a reference to the NHS Business Services Authority.

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(2) [S.I. 1998/2223](#) amended by [S.I. 2002/2469](#).

(3) The Directions to the Dental Practice Board Concerning Functions Relating To Personal Dental Services Pilot Schemes were made on 11th September 1998 and are available on [www.dh.gov.uk](http://www.dh.gov.uk).

(3) The ancillary functions which relate to the functions specified in paragraph (1) and which are referred to in, or are a consequence of, directions 14(b), 17, 23(a) and 25(b) of, and paragraph 12 of Schedule 1 to, the PDS Directions shall be exercisable by the NHS Business Services Authority.

(4) In relation to the terms of a pilot scheme agreement which give effect to the directions mentioned in paragraph (3), any reference to the Board in that agreement shall be read as a reference to the NHS Business Services Authority for the purposes of the exercise of functions by that Authority.

### **Rights and transfer of liabilities of the Board**

**42.**—(1) Any right that was on or before 31st March 2006 enforceable by or against the Board shall, on or after that date, be enforceable by or against the NHS Business Services Authority.

(2) On 1st April 2006 all rights and liabilities of the Board shall be transferred to the NHS Business Services Authority.

(3) Anything done by or on behalf of the Board in relation to the rights and liabilities of the Board shall be treated, from the 1st April 2006 as having been done by or on behalf of the NHS Business Services Authority.

### **Transfer of Board officers**

**43.**—(1) In this article, “officer” has the same meaning as in the Dental Practice Board Regulations 1992(4).

(2) This article shall apply in relation to an officer of the Board who on 31st March 2006 is wholly or mainly engaged in the performance of duties prescribed under section 37(1)(a) of the 1977 Act or other functions conferred under section 37(1) and (1C) of that Act(5).

(3) Any officer of the Board to whom paragraph (1) applies shall, on 1st April 2006, be transferred to the employment of the NHS Business Services Authority.

(4) The contract of employment of an officer of the Board transferred under paragraph (2)—

- (a) is not terminated by the transfer; and
- (b) has effect from the time of the transfer as if originally made between the officer and the NHS Business Services Authority.

(5) Without prejudice to paragraph (3)—

- (a) all the rights, powers, duties and liabilities of the Board are transferred, under or in connection with its contract of employment with an officer transferred under paragraph (2), to the NHS Business Services Authority; and
- (b) anything done before the date of the transfer by or in relation to the Board in respect of an officer or his contract of employment, shall be deemed to have been done by or in relation to the NHS Business Services Authority.

(6) Paragraphs (2) and (4) do not transfer an officer’s contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that officer has objected to the transfer to the NHS Business Services Authority and has informed the Board.

(7) Where an officer has objected as mentioned in paragraph (5), his contract of employment with the Board shall be terminated immediately before the transfer would occur, but he shall not be treated, for any purpose, as having been dismissed from the Board.

(8) This article is without prejudice to any right of an officer to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such

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(4) [S.I. 1992/655](#).

(5) Section 37(1C) was inserted by the Health and Medicines Act 1988 (c. 49), section 12(3).

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

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right shall arise by reason only that, under this article, the identity of his employer changes unless the officer shows that, in all the circumstances, the change is a significant change and is to his detriment.

### **Transfer of property**

**44.** On 1st April 2006 all property of the Board is transferred to the NHS Business Services Authority.

### **Outstanding accounts of the Board**

**45.** The NHS Business Services Authority may take such steps as may be necessary in connection with matters arising in relation to the accounts of the Board and the performance of all statutory duties relating to those accounts.