
STATUTORY INSTRUMENTS

2020 No. 351

The National Health Service (Amendments
Relating to the Provision of Primary Care Services
During a Pandemic etc.) Regulations 2020

PART 2

Amendments relating to primary dental services

Amendment of the National Health Service (General Dental Services Contracts) Regulations 2005

2.—(1) The National Health Service (General Dental Services Contracts) Regulations 2005⁽¹⁾ are amended as follows.

(2) In regulation 2⁽²⁾ (interpretation), after paragraph (2) insert—

“(3) In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

(3) After regulation 24C⁽³⁾ (variation of contractual terms in respect of election to enter into a prototype agreement) insert—

“Suspension of contract terms or of enforcement of contract terms while a disease is or in anticipation of a disease being imminently pandemic etc.

24D.—(1) Any term that is part of a contract or a prototype agreement as a consequence of action taken under this Part or by agreement between the parties is temporarily not part of that contract or agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

(a) as a consequence of a disease being, or in anticipation of a disease being imminently—

(i) pandemic, and

(ii) a serious risk or potentially a serious risk to human health,

the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

⁽¹⁾ [S.I. 2005/3361](#).

⁽²⁾ There are no relevant amending instruments.

⁽³⁾ Inserted by [S.I. 2015/1728](#).

- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of general dental services contracts (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contract or agreement.
- (2) The Board must not take enforcement action, as provided for in a contract or prototype agreement, in respect of a breach of a term of the contract or agreement in the following circumstances—
- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,
 the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of general dental services contracts (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.

Amendment of the National Health Service (Personal Dental Services Agreements) Regulations 2005

3.—(1) The National Health Service (Personal Dental Services Agreements) Regulations 2005⁽⁴⁾ are amended as follows.

(2) In regulation 2⁽⁵⁾ (interpretation), after paragraph (2) insert—

“(3) In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

(4) S.I. 2005/3373.

(5) There are no relevant amending instruments.

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

- (3) After regulation 20C(6) (other contractual terms) insert—

“Suspension of agreement terms or of enforcement of agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.

20D.—(1) Any term that is part of an agreement (including a prototype agreement) as a consequence of action taken under this Part or by agreement between the parties is temporarily not part of that agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
- (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
- (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contractor’s agreement.

(2) The Board must not take enforcement action, as provided for in an agreement (including a prototype agreement), in respect of a breach of a term of the agreement in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

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- (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
- (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.