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SCOTTISH STATUTORY INSTRUMENTS

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**2000 No. 188**

**NATIONAL HEALTH SERVICE**

**The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2000**

<i>Made</i>	- - - -	<i>14th June 2000</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>16th June 2000</i>
<i>Coming into force</i>	- -	<i>7th July 2000</i>

The Scottish Ministers, in exercise of the powers conferred upon them by sections 2(5), 25(1), (2), (2B) and (5), 32E, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make 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 2000 and shall come into force on 7th July 2000.

(2) In these Regulations, “the principal Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1996(2).

**Amendment of regulation 2 of the principal Regulations**

2.—(1) Regulation 2 of the principal Regulations (interpretation) is amended as follows.

(2) In the definition of “approved trainer” before the words “a dental list” there is inserted “Part A of”.

**Amendment of regulation 4 of the principal Regulations**

3.—(1) Regulation 4 of the principal Regulations (dental list)(3) is amended as follows.

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- (1) 1978 (c. 29); section 25(2) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), Schedule 2, paragraph 11 and by the National Health Service and Community Care Act 1990 (c. 19), section 40(2) and Schedule 9, paragraph 19(6) and was extended by the 1988 Act; section 105(7) which contains provisions relevant to the making of regulations, was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, and by the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) S.I. 1996/177; relevant amending instruments are S.I. 1996/841, 2060, 1998/1663, 2224, 1999/724 and S.S.I. 1999/51.
- (3) Regulation 4 was amended by S.I. 1998/1663, 1999/724 and S.S.I. 1999/51.

- (2) For paragraph (1) there is substituted—
- “(1) The Health Board or primary care NHS trust<sup>(4)</sup> shall prepare a list, to be called the dental list.”;
- (3) After paragraph (1) there is inserted the following new paragraphs—
- “(1A) Part A of the dental list shall be a list of dentists who, pursuant to the provisions of regulation 5, have undertaken to provide general dental services in the appropriate part of the Health Board’s area and who are not disentitled by virtue of the provisions of—
- (a) section 25(2A), 30(1), 31(b), 32A(3), 32B(1) or 32D(2) of the Act<sup>(5)</sup>;
  - (b) section 8(2) of the Health and Medicines Act 1988<sup>(6)</sup>; or
  - (c) regulation 10 (restriction on the right to be included in a dental list).
- “(1B) Part B of the dental list shall be a list of dentists who, pursuant to the provisions of regulation 5 have undertaken to provide emergency dental services under regulation 17, in the appropriate part of the Health Board’s area and who are not disentitled by virtue of—
- (a) section 25(2A), 30(1), 31(b), 32A(3), 32B(1) or 32D(2) of the Act;
  - (b) section 8(2) of the Health and Medicines Act 1988; or
  - (c) paragraphs (1) and (2)(a) of regulation 10 (restrictions on the right to be included in a dental list).”.

(4) In paragraph (2) for the words “The dental list” there is substituted “Part A of the dental list”.

(5) After paragraph (2) there is inserted—

“(2A) Part B of the dental list shall, in addition to the name of the dentist—

    - (a) contain—
      - (i) the address of the Health Board or primary care NHS trust premises where the emergency dental services under regulation 17 will be undertaken;
      - (ii) the date of his registration as a dental practitioner in the register kept under section 14 of the Dentists Act 1984, particulars of the dental qualification held by the dentist which entitles him to be registered, including the dates on which the qualification was awarded and particulars of any dental qualification held by him which is registerable pursuant to section 19(1)(c) of the Dentists Act 1984<sup>(7)</sup>; and
    - (b) indicate whether the dentist is indemnified against claims relating to the practice of dentistry in relation to dentistry performed by the dentist himself.”.

#### **Amendment of regulation 5 of the principal Regulations**

4.—(1) Regulation 5 of the principal Regulations (application for inclusion in the dental list)<sup>(8)</sup> is amended as follows.

- (2) For paragraph (1) there is substituted the following new paragraph—
- “(1) Subject to paragraphs (2) and (3), a dentist who wishes to have his name included in the dental list shall make an application to the Health Board or primary care NHS trust in writing which—

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(4) The definition of “primary care NHS trust” was inserted by [S.S.I. 1999/51](#).

(5) Section 25(2A) was inserted by S.I. 1981/432, article 4(3); section 30(1) was amended by the National Health Service (Amendment) Act 1995 (c. 31) (“the 1995 Act”) section 10; section 32A, 32B and 32D were inserted by section 8 of the 1995 Act.

(6) 1988 (c. 49).

(7) 1984 c. 24.

(8) Regulation 5 was amended by [S.S.I. 1999/51](#).

- (a) shall, if the application relates to Part A of the dental list, include the information and undertakings specified in Part I of Schedule 2;
- (b) shall, if the application only relates to Part B of the dental list, include the information and undertakings specified in Part 1A of Schedule 2; and
- (c) may, if the application relates to Part A or Part B of the dental list, include the information specified in Part II of Schedule 2,

and the Health Board or primary care NHS trust shall determine the application within 14 days of the date of its receipt, or where in relation to an application which relates to Part A of the dental list, it considers that the proposed practice premises should be inspected, within 14 days of the date of inspection.”.

(3) In paragraph (2) after the words “included in” there is inserted “Part A of”.

(4) In paragraph (3) after the word “paragraph” in the second place where it occurs, there is inserted “for inclusion in Part A of the dental list”.

#### **Amendment of regulation 6 of the principal Regulations**

5.—(1) Regulation 6 of the principal Regulations (applications for vocational training numbers)(9) is amended as follows.

(2) In paragraph (1)(a) after the words “under regulation 5” there is inserted “for inclusion in Part A of the dental list”.

(3) In paragraph 6(3)(b) after the words “United Kingdom” there is inserted “, other than in Part B only of a dental list in Scotland.”.

#### **Amendment of regulation 10 of the principal Regulations**

6.—(1) Regulation 10 of the principal Regulations (restrictions on the right to be included in a dental list)(10) is amended as follows.

(2) For paragraph (1) there is substituted—

“(1) A dentist shall not be entitled to have his name included in—

- (a) Part A of the dental list prepared by any Health Board or primary care NHS trust where the circumstances specified in paragraph (2) apply;
- (b) Part B of the dental list prepared by any Health Board or primary care NHS trust where the circumstances specified in paragraph (2)(a) apply.”.

#### **Amendment of regulation 11 of the principal Regulations**

7.—(1) Regulation 11 of the principal Regulations (removal from dental list)(11) is amended as follows.

(2) In paragraph (1)—

(a) at the end of sub paragraph (a) the word “or” is omitted;

(b) after sub paragraph (b) there is inserted—

“(c) has been convicted in the United Kingdom of murder; or

(d) has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months”.

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(9) Regulation 6 was amended by S.I. 1996/2060, 1998/1663, 2224 and S.S.I. 1999/51.

(10) Regulation 10 was amended by S.S.I. 1999/51.

(11) Regulation 11 was amended by S.I. 1998/2224 and S.S.I. 1999/51.

(3) In paragraph (2)(b) before the words “the dental list” there is inserted “Part A of”.

(4) In paragraph (4)(c) after the words “salaried dentist” there is inserted “or his name is included in Part B of the dental list only”.

#### **Amendment of regulation 12 of the principal Regulations**

**8.**—(1) Regulation 12 of the principal Regulations (removal from dental list on grounds of age)(**12**) is as amended as follows.

(2) In paragraph (3) before the words “the dental list” there is inserted “Part A of”.

(3) After paragraph (3) there is inserted—

“(4) A Health Board or primary care NHS trust shall give to any dentist whose name is to be removed from Part B of the dental list in accordance with paragraph (2), notice in writing to that effect not less than 3 months nor more than 4 months before the date on which his name is to be removed.”.

#### **Amendment of regulation 16 of the principal Regulations**

**9.**—(1) Regulation 16 of the principal Regulations (transfer of continuing care and capitation arrangements)(**13**) is amended as follows.

(2) In paragraph (1) before the words “the dental list” in both places where they occur there is inserted “Part A of”.

(3) In paragraph (2) before the words “the dental list” there is inserted “Part A of”.

(4) In paragraph (3) before the words “the dental list” there is inserted “Part A of”.

#### **Amendment of regulation 18 of the principal Regulations**

**10.**—(1) Regulation 18 of the principal Regulations (arrangements for emergency cover)(**14**) is amended as follows.

(2) Before the words “its dental list” there is inserted “Part A of”.

#### **Amendment of regulation 26 of the principal Regulations**

**11.**—(1) Regulation 26(a) of the principal Regulations (interpretation of Part V) is amended as follows.

(2) In the definition of “fees” after the word “salary” there is inserted “or remuneration for providing emergency dental services under regulation 17”.

#### **Amendment of regulation 27 of the principal Regulations**

**12.**—(1) Regulation 27 of the principal Regulations (entitlement to payment)(**15**) is amended as follows.

(2) In paragraph (4)(b) before the words “the dental list” there is inserted “Part A of”.

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(12) Regulation 12 was amended by S.I. 1999/724 and S.S.I. 1999/51.

(13) Regulation 16 was amended by S.S.I. 1999/51.

(14) Regulation 18 was amended by S.I. 1999/724 and S.S.I. 1999/51.

(15) Regulation 27 was amended by S.S.I. 1999/51.

### **Amendment of regulation 28 of the principal Regulations**

**13.**—(1) Regulation 28 of the principal Regulations (application for payment)(**16**) is amended as follows.

(2) In paragraph (1)—

- (a) before the words “whose dental list” there is inserted “Part A of”; and
- (b) before the words “the list of” there is inserted “Part A of”.

### **Amendment of regulation 29 of the principal Regulations**

**14.**—(1) Regulation 29 of the principal Regulations (amounts and times of payment)(**17**) is amended as follows.

(2) In paragraph (3) before the words “the dental list” there is inserted “Part A of”.

### **Amendment of regulation 33 of the principal Regulations**

**15.**—(1) Regulation 33 of the principal Regulations (prior approval – patterns of treatment)(**18**) is amended as follows.

(2) In paragraph (7)—

- (a) before the words “any dental list” there is inserted “Part A of”; and
- (b) before the words “a dental list” there is inserted “Part A of”.

(3) In paragraph (8) before the words “any dental list” there is inserted “Part A of”.

### **Amendment of regulation 34A of the principal Regulations**

**16.**—(1) Regulation 34A of the principal Regulations (appeals from decisions of the Board)(**19**) is amended as follows.

(2) In paragraph (2) before the words “whose dental list” there is inserted “Part A of”.

(3) In paragraph (3)—

- (a) before the words “the dental list” there is inserted “Part A of”; and
- (b) in sub-paragraph (c)(ii) before the words “whose dental list” there is inserted “Part A of”.

### **Amendment of Schedule 1 to the principal Regulations**

**17.**—(1) Schedule 1 to the principal Regulations (terms of service for dentists) is amended as follows.

(2) In paragraph 13 (treatment on referral)—

(a) for sub-paragraph (1) there is substituted—

“(1) Subject to sub-paragraphs (1A) and (1B), a dentist may accept a patient who has been referred to him by another dentist who is providing dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule for particular care and treatment.

(1A) Subject to sub-paragraph (1B) a dentist shall not accept a patient for orthodontic treatment or treatment under general anaesthesia unless that patient has

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(16) Regulation 28 was amended by S.S.I. 1999/51.

(17) Regulation 29 was amended by S.I. 1999/724 and S.S.I. 1999/51.

(18) Regulation 33 was amended by S.I. 1996/841.

(19) Regulation 34A was inserted by S.I. 1996/841 and amended by S.S.I. 1999/51.

been referred to him for such treatment by another dentist who is providing dental services to that patient (whether or not pursuant to the Act) otherwise than under Part III of this Schedule.

(1B) A dentist may only accept a patient who presents himself for orthodontic treatment if the dentist has obtained the prior approval in writing of the Board to the effect that the Board is satisfied that there are exceptional circumstances which allow the patient to so present himself.

(1C) Subject to paragraph (5) a dentist who accepts a patient for treatment under sub-paragraphs (1), (1A) or (1B) shall—

- (a) at the time at which he accepts the patient, provide him with a form of acceptance supplied by the Health Board or primary care NHS trust, or a form to like effect, which shall specify—
  - (i) the name of the patient;
  - (ii) the name of the dentist;
  - (iii) particulars of the places where the patient will receive care and treatment; and
  - (iv) the telephone number at which the dentist or a deputy may be contacted during normal surgery hours, or at other times in an emergency if different;
- (b) at the time of his first examination of the patient, provide the patient with a plan for treatment on a form supplied by the Health Board or primary care NHS trust, or a form to like effect, which shall specify—
  - (i) details of the care and treatment which, in the opinion of the dentist, at the date of that examination, is necessary for him to provide having regard to the reason for the referral;
  - (ii) his estimate of the NHS charge, if any, in respect of that care and treatment;
  - (iii) any proposals he may have for private care and treatment as an alternative to the care and treatment proposed under general dental services, including particulars of the cost to the patient;
- (c) where, in the opinion of the dentist, the care and treatment included in the plan for treatment provided under head (b) of this sub-paragraph needs to be varied, provide the patient with a revised plan for treatment in accordance (except as to the time of its provision) with head (b) of this sub-paragraph;
- (d) complete the care and treatment, which is referred to in head (b)(i) of this sub-paragraph;
- (e) until such time as the treatment on referral has been completed, provide the patient with emergency cover in accordance with paragraph 6(1) and (2), but only to the extent that the patient requires prompt care and treatment in relation to the particular care and treatment for which he has been referred or for which he has presented himself; and
- (f) repair or replace in accordance with sub-paragraph (2) any restoration which requires repair or replacement.”.

(b) in sub-paragraph (5) for the words “Sub-paragraph (1)” there is substituted “Sub-paragraph (1C)”.

(3) For paragraph 18(3) (referral for occasional treatment) there is substituted—

“(3) Subject to sub-paragraph (4) a dentist shall only accept a patient where he has been referred to him under sub-paragraph (1) and shall provide only the occasional treatment which, in the opinion of the dentist, it is necessary for him to provide having regard to the reason for referral.”.

(4) After paragraph 18(3) there is inserted—

“(4) A dentist may accept a patient who presents himself for the occasional treatment listed in paragraph 17(2)(m) only, providing the dentist has obtained the prior approval in writing of the Board to the effect that the Board is satisfied that there are exceptional circumstances which allow the patient to present himself.”.

(5) For paragraph 19 (remuneration) there is substituted—

#### **“Remuneration**

**19.** Subject to regulation 22 (statement of dental remuneration) and this Schedule, a dentist shall not—

- (a) claim a fee or accept payment of any fee from the Agency<sup>(20)</sup> for any treatment provided otherwise than under general dental services;
- (b) claim a fee or accept payment of any fee from the patient for any treatment provided under general dental services, for which a claim has been or will be submitted to the Board, except such fee as may be prescribed by the National Health Service (Dental Charges) (Scotland) Regulations 1989<sup>(21)</sup>;
- (c) claim a fee or accept payment of any fee from the Agency for any treatment provided under general dental services for which a fee has already been claimed under general dental services; or
- (d) claim a fee or accept payment of any fee for any treatment which has not been provided.
- (e) claim a fee or accept payment of any fee from the Agency for any treatment provided under a pilot scheme for personal dental services.”.

(6) In paragraph 32 (patient information leaflets)<sup>(22)</sup> in sub-paragraphs (1) and (3) before the words “the dental list” there is inserted “Part A of”.

(7) In paragraph 33 (premises etc.)<sup>(23)</sup> in sub-paragraph (4) at the end there is added “or, in relation to premises where general anaesthetic and/or sedation services are provided, reviewing the procedures and staff training”.

(8) In paragraph 35 (deputies and assistants)<sup>(24)</sup> in sub-paragraph (6) and (13) before the words “the dental list” there is inserted “Part A of”.

(9) In paragraph 37 (deputies and assistants) before the words “the dental list” there is inserted “Part A of”.

(10) In paragraph 38 (dentists suspended under section 28 or 32 of the Dentists Act 1984) before the words “the dental list” there is inserted “Part A of”.

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<sup>(20)</sup> The definition of “Agency” was inserted by S.I. 1999/724.

<sup>(21)</sup> S.I. 1989/363, as amended by S.I. 1990/1772, 1991/569, 1992/458, 1993/523, 1994/636, 1995/703, 1996/472, 1997/585, 1998/610, 2258, 1999/724 and S.S.I. 2000/44.

<sup>(22)</sup> Paragraph 32 was amended by S.S.I. 1999/51.

<sup>(23)</sup> Paragraph 33 was amended by S.S.I. 1999/51.

<sup>(24)</sup> Paragraph 35 was amended by S.S.I. 1999/51.

## **Amendment of Schedule 2 to the principal Regulations**

**18.**—(1) Schedule 2 to the principal Regulations (application for inclusion in the dental list) is amended as follows.

(2) In Part I(25)–

(a) in the heading before the words “THE DENTAL LIST” there is inserted “PART A of”.

(b) at the end of paragraph 10(b) the word “or” is omitted;

(c) after paragraph 10(c) there is inserted–

“; or

(d) as an employee of, or under any other contractual or legal arrangement or relationship with a body corporate, and if so, full details of the name of the body corporate and its registered office.”; and

(d) after paragraph 17 there is inserted–

“**18.** Declaration as to whether–

(a) he has been convicted of a criminal offence, bound over or cautioned in the United Kingdom or elsewhere, or is currently the subject of any proceedings which might lead to a conviction, order to bind over or caution;

(b) he has been, or is currently subject to any action by his professional body or by any licensing or regulatory body in the United Kingdom or elsewhere,

and if so, details, including approximate dates of where the action or proceedings were or are to be brought, the nature of that action or proceedings and any outcome.”.

(3) After Part I there is inserted Part IA as set out in the Schedule to these Regulations.

St Andrew’s House,Edinburgh  
14th June 2000

*SUSAN C DEACON*  
A member of the Scottish Executive

## SCHEDULE

Regulation 18(3).

### “PART IA

#### INFORMATION TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN PART B ONLY OF THE DENTAL LIST

1. Full name.
2. Sex.
3. Date of Birth.
4. Private address.
5. Date of registration as a dental practitioner in the register kept under section 14 of the Dentists Act 1984 and registration number, dental qualifications registerable under that Act and when obtained.
6. Address of proposed Health Board or primary care NHS trust premises where emergency dental services will be undertaken.
7. Details of current and/or recent, within the last two years, clinical activities in dentistry.
8. Whether he has been suspended by the Tribunal.
9. Whether he is indemnified against claims relating to the practice of dentistry in relation to dentistry performed by himself and if he is indemnified, documentary evidence of that fact.
10. Details of any limitations imposed by the Secretary of State for the Home Department which restricts his ability to work in any specific capacity in Scotland.
11. A declaration as to whether—
  - (a) he has been convicted of a criminal offence bound over or cautioned in the United Kingdom or elsewhere, or is currently the subject of any proceedings which might lead to such a conviction, order to bind over or caution;
  - (b) he has been, or is currently subject to any action by his professional body or by any licensing or regulatory body in the United Kingdom or elsewhere,and if so, details, including approximate dates, of where the action or proceedings were brought, the nature of that action or proceeding and any outcome.”

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### EXPLANATORY NOTE

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

These Regulations amend the National Health Service (General Dental Services) (Scotland) Regulations 1996 (S.I.1996/177) (“the principal Regulations”), which provide for arrangements under which dentists provide general dental services as part of the National Health Service in Scotland.

The Regulations amend the principal Regulations to divide the dental list into 2 parts, Part A to list those dentists who have undertaken to provide general dental services and Part B to list those dentists who have undertaken to provide emergency dental services under regulation 17 of the principal Regulations (regulations 3(3) and (5), and 4). The Regulations amend the principal Regulations to provide that dentists who wish to undertake emergency dental services only, do not require a vocational training number (regulations 3(3) and 5). The Regulations also amend a number of references to the dental list throughout the principal Regulations to refer to as appropriate to Part A or Part B of the list.

Regulation 7 amends regulation 11 of the principal Regulations (removal from dental list) to require a Health Board or primary care NHS trust to remove the name of a dentist from the dental list if he has been convicted in the UK of murder or has been convicted in the UK of a criminal offence and sentenced to a term of imprisonment of at least 6 months.

Regulation 17(2) amends paragraph 13 (treatment on referral) of Schedule 1 to the principal Regulations (terms of service). It provides that, subject to an exception, dentists may not accept a patient for orthodontic treatment or treatment under general anaesthesia unless that patient has been referred by another dentist. The exception is that dentists may accept a patient who refers himself for orthodontic treatment, providing the dentist obtains the prior written approval of the Scottish Dental Practice Board. Regulation 17(3) and (4) make similar amendments to paragraph 18(3) of Schedule 1 to the principal Regulations in relation to referral for occasional treatment.

Regulation 17(5) substitutes a new paragraph 19 (remuneration) into Schedule 1 to the principal Regulations, to clarify when a dentist may claim a fee or accept payment of a fee.

Regulation 17(7) amends paragraph 33 of Schedule 1 to the principal Regulations in relation to dental surgeries where general anaesthesia and /or sedation are provided, to allow the Health Board or primary care NHS trust to review the procedures and staff training.

Regulation 18 amends Schedule 2 to the principal Regulations (application for inclusion in the dental list). Regulation 18(2) inserts a new paragraph 18 into the Schedule. The new paragraph sets out an additional declaration which requires the applicant to state any convictions or current proceedings for a criminal offence or action by a professional licensing or regulatory body. Regulation 18(3) and the Schedule to the Regulations insert a new Part IA into Schedule 2 to the principal Regulations. The new Part IA sets out the information to be included in an application for inclusion in Part B only of the dental list.