
WELSH STATUTORY INSTRUMENTS

2001 No. 2133 (W. 148)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (General Dental Services) (Amendment) (Wales) Regulations 2001

Made - - - - *5th June 2001*
Coming into force - - *12th July 2001*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 15(1), 35(1), 36(1) and (3) and 126(4) of the National Health Service Act 1977(1) hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the National Health Service (General Dental Services) (Amendment) (Wales) Regulations 2001 and shall come into force on 12th July 2001.

(2) These Regulations shall apply to Wales only.

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

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

(1) 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 section 5(2) of the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”); by the 1990 Act, section 12(1) and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), section 2(1) and Schedule 1, paragraph 6(e).
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 section 25 of and Schedule 2, paragraph 4 to the Health and Medicines Act 1988 (c. 49), by the 1990 Act, section 24(2) and by the 1995 Act, section 2(1) and Schedule 1, paragraph 25(a). Section 36(3) was inserted by the 1990 Act, section 24(3).
Section 126(4) was amended by the 1990 Act, section 65(2); and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 37(6).
The functions of the Secretary of State under sections 15(1), 35(1), 36(1) and (3) and 126(4) of the 1977 Act are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 S.I.1999/672, article 2 and Schedule 1, as amended by section 66(5) of the 1999 Act.

(2) S.I.1992/661; relevant amending instruments are S.I.1993/2209 and 3172, 1995/3092, 1998/1648 and 2000/3118.

Amendment of regulation 2 of the principal Regulations

3. In regulation 2(1) of the principal Regulations (interpretation), insert the following definitions in the appropriate places in alphabetical order—

“dental list” shall be construed in accordance with regulation 4(1);

“general anaesthesia list” shall be construed in accordance with regulation 5D;”.

Amendment of regulation 4 of the principal Regulations

4. In regulation 4 of the principal Regulations (dental list)—

(a) delete “and” at the end of paragraph 2(b)(ii); and

(b) at the end of paragraph 2(b)(iii) delete “.” and add
“; and

(iv) whether the dentist’s name is on the general anaesthesia list.”.

Amendment of regulation 5 of the principal Regulations

5. In regulation 5 of the principal Regulations (application for inclusion in the dental list)—

(a) for “FHSA” in each place where that abbreviation occurs substitute the words “Health Authority”;

(b) after paragraph (2) insert—

“(2A) Where a Health Authority, following its inspection of the proposed practice premises, determines in accordance with paragraph (2) that a dentist’s name should be included in the dental list because it has determined that the practice premises are proper and sufficient for the provision of general dental services, it shall —

(a) forthwith give notice in writing of its determination to the dentist; and

(b) add the dentist’s name to its dental list.

(2B) Where the Health Authority, following its inspection of the proposed premises, determines in accordance with paragraph (2) that a dentist’s name should not be included in the dental list because the practice premises are not proper and sufficient for the provision of general dental services, it shall —

(a) forthwith give notice in writing of its determination to the dentist; and

(b) include with the notice a statement of its reasons for the determination and a statement that the dentist may, within 28 days following the day he received notice of the determination, appeal in writing to the National Assembly for Wales against it.

(2C) Where a dentist appeals in accordance with paragraph (2B), the National Assembly for Wales shall make arrangements with the dentist to carry out an inspection of the proposed practice premises within 28 days following receipt of the dentist’s notice of appeal, or such longer period as may be mutually agreed.

(2D) The inspection shall be carried out by a person nominated by the National Assembly for Wales in the presence of the dentist and a representative of the Health Authority.

(2E) The National Assembly for Wales shall, following the inspection, determine whether the proposed practice premises are proper and sufficient for the provision of general dental services.

(2F) Where the National Assembly for Wales determines, in accordance with paragraphs (2C) to (2E), that the proposed practice premises are proper and sufficient for

the provision of general dental services, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its determination and the Health Authority shall, on receiving such notification, include the dentist's name in the dental list forthwith.

(2G) Where the National Assembly for Wales determines, in accordance with paragraphs (2C) to (2E), that the proposed practice premises are not proper and sufficient for the provision of general dental services, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its determination.”.

General anaesthesia list

6. After regulation 5C insert—

“General anaesthesia list

5D.—(1) The Health Authority shall draw up and maintain a list (in these Regulations referred to as the “general anaesthesia list”) of the names of those dentists who provide any treatment to patients under general anaesthesia and a dentist's name may only be included in a Health Authority's general anaesthesia list if his name is included in that Health Authority's dental list.

(2) The general anaesthesia list shall, in addition to containing the name of a dentist, contain the addresses of all the practice premises at which the said dentist provides treatment to patients under general anaesthesia.

(3) A dentist whose name is included in a Health Authority's general anaesthesia list may only provide treatment under general anaesthesia at premises which are specified against his name in the list.

(4) Any dentist whose name is, on 12th July 2001, on a Health Authority's dental list shall have his name included in that Health Authority's general anaesthesia list if he notifies the Health Authority in writing within 14 days of that date of his wish for his name to be included in that list.

(5) Where paragraph (4) does not apply, a dentist may apply to a Health Authority for the inclusion of his name in the general anaesthesia list by writing to the Health Authority specifying the premises at which he intends to perform treatment on patients under general anaesthesia.

(6) Where a dentist makes an application in accordance with paragraph (5) the Health Authority shall inspect the dentist's practice premises to determine whether the practice premises are proper and sufficient for the provision of treatment under general anaesthesia and, unless the dentist otherwise agrees, the Health Authority shall determine the application within 14 days of such inspection.

(7) Where the Health Authority determines in accordance with paragraph (6) that the practice premises are proper and sufficient for the provision of treatment under general anaesthesia, it shall—

- (a) forthwith give notice in writing of its determination to the dentist; and
- (b) add the dentist's name to its general anaesthesia list.

(8) Where the Health Authority determines in accordance with paragraph (6) that a dentist's name should not be included in its general anaesthesia list because the practice premises are not proper and sufficient for the provision of treatment under general anaesthesia, it shall—

- (a) give notice in writing of its determination to the dentist; and
- (b) include with the notice a statement of its reasons for the determination and a statement that the dentist may, within 28 days following the day he received notice of the determination, appeal in writing to the National Assembly for Wales against it.

(9) Where the dentist appeals in accordance with paragraph (8), the National Assembly for Wales shall make arrangements with the dentist to carry out an inspection of the practice premises within 28 days following its receipt of the dentist's notice of appeal, or such longer period as may be mutually agreed.

(10) The inspection shall be carried out by a person nominated by the National Assembly for Wales in the presence of the dentist and a representative of the Health Authority.

(11) The National Assembly for Wales shall, following the inspection, determine whether the practice premises are proper and sufficient for the provision of treatment under general anaesthesia.

(12) Where the National Assembly for Wales determines, in accordance with paragraphs (9) to (11), that the practice premises are proper and sufficient for the provision of treatment under general anaesthesia, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its determination and the Health Authority shall, on receiving such notification, add the dentist's name to its general anaesthesia list forthwith.

(13) Where the National Assembly for Wales determines, in accordance with paragraphs (9) to (11), that the practice premises are not proper and sufficient for the provision of treatment under general anaesthesia, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its determination.

(14) A dentist may apply for his name to be removed from the general anaesthesia list by notifying the Health Authority of his wish in writing.

(15) A dentist's name shall be removed from the general anaesthesia list forthwith if his name is removed for any reason from the Health Authority's dental list.

Removal from or amendment of the general anaesthesia list

5E.—(1) Where, following an inspection under paragraph 33A(6) of Schedule 1, the Health Authority determines that the practice premises are no longer proper and sufficient for the provision of treatment under general anaesthesia, it shall forthwith give notice in writing of its determination to the dentist and shall include with the notice a statement of the reasons for its determination and a statement that the dentist may, within 28 days following the day he received notice of such determination, appeal to the National Assembly for Wales against it.

(2) In a case falling within paragraph (1) the Health Authority shall ascertain by making enquiries of the National Assembly for Wales, whether the dentist has appealed in accordance with paragraph (1) and, where he has not done so, shall, subject to paragraph (8), remove his name from the general anaesthesia list forthwith.

(3) Where a dentist appeals in accordance with paragraph (1), the National Assembly for Wales shall make arrangements with the dentist to carry out an inspection of the practice premises within 28 days following receipt of the dentist's notice of appeal, or such longer period as may be mutually agreed.

(4) The inspection shall be carried out by a person nominated by the National Assembly for Wales in the presence of the dentist and a representative of the Health Authority.

(5) The National Assembly for Wales shall, following an inspection, determine whether the practice premises continue to be proper and sufficient for the provision of treatment under general anaesthesia.

(6) Where the National Assembly for Wales determines, in accordance with paragraphs (3) to (5), that the practice premises continue to be proper and sufficient for the provision of treatment under general anaesthesia, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its determination.

(7) Where the National Assembly for Wales determines, in accordance with paragraphs (3) to (5) that the practice premises are no longer proper and sufficient for the provision of treatment under general anaesthesia, it shall forthwith give notice in writing of its determination to the Health Authority and the dentist and shall include with the notice a statement of the reasons for its decision and the Health Authority shall, on receiving such notification, but subject to paragraph (8), remove the dentist's name from its general anaesthesia list forthwith.

(8) Where a case falls within paragraphs (2) or (7) but the dentist provides treatment to patients under general anaesthesia at more than one set of practice premises, the address of the practice premises in question shall be erased from the general anaesthesia list but the dentist's name shall continue to be included in the list unless all of the practice premises at which he provides such treatment are no longer proper and sufficient for the provision of treatment under general anaesthesia.”.

Amendment of Schedule 1 to the principal Regulations

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

(2) In paragraph 16 (mixing of general dental services and private care and treatment)—

(a) at the end of sub-paragraph (3)(a) delete “and”; and

(b) after sub-paragraph (3)(b) delete “.” and add—

“or;

(c) where the treatment involves the administration of general anaesthesia, in which case the treatment shall be provided wholly under general dental services or wholly privately.”.

(3) In paragraph 21 (general anaesthesia and sedation)—

(a) in sub-paragraph (1) for “Where a dentist”, substitute “Subject to his name being included in the Health Authority's general anaesthesia list, where a dentist”;

(b) in sub-paragraph (1)(a) for “a doctor or other dentist experienced in the administration of general anaesthesia” substitute “an appropriately qualified doctor”; and

(c) after sub-paragraph (3) add—

“(4) In this paragraph “an appropriately qualified doctor” means a doctor who is—

(a) on the specialist register of the General Medical Council as an anaesthetist; or

(b) working under supervision as part of a Royal College of Anaesthetists' approved training programme; or

(c) an anaesthetist, other than a consultant anaesthetist employed by a health service hospital, under the supervision of a named consultant anaesthetist employed by the anaesthetic department of the same health service hospital.”.

(4) In paragraph 27A (completion of claim forms)—

- (a) at the end of sub-paragraph (1)(b), delete “,” and add—
“; or
(c) entitlement to a free clinical examination and any report on that examination under regulation 3(2)(f) of the National Health Service (Dental Charges) Regulations 1989,”⁽³⁾
- (5) After paragraph 33 (premises etc) insert—

“Premises: general anaesthesia

33A.—(1) A dentist whose name has been included in the general anaesthesia list shall notify the Health Authority of any change of address of his practice premises, and inform the Health Authority whether he wishes to perform treatment under general anaesthesia at his new practice premises.

(2) Where the dentist informs the Health Authority that he does not wish to perform treatment under general anaesthesia at his new practice premises, the Health Authority shall remove the dentist’s name from its general anaesthesia list forthwith.

(3) Where the dentist informs the Health Authority that he wishes to perform treatment under general anaesthesia at his new practice premises, he shall apply to the Health Authority in writing to continue to be included in its general anaesthesia list.

(4) The provisions of paragraphs (6) to (13) of regulation 5D shall be applied to an application under paragraph (3) as if it were an application for inclusion in the general anaesthesia list.

(5) The dentist shall not provide treatment under general anaesthesia at his new practice premises unless his application or, in the case of an appeal, his appeal is determined in his favour.

(6) A dentist whose name is included in the general anaesthesia list shall, at any time during the hours which his practice premises are usually open for the provision of general dental services, admit a dental officer or a person authorised by the Health Authority for the purpose of inspecting any of his practices premises at which treatment under general anaesthesia is or may be provided, whether or not notice has been given.”.

(6) In paragraph 40 (general anaesthetics), for “a doctor or another dentist”, substitute “an appropriately qualified doctor”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽⁴⁾

5th June 2001

D. Elis Thomas
The Presiding Officer of the Assembly for Wales

⁽³⁾ S.I.1989/394, as amended by S.I.1991/581, 1992/369, 1993/419, 1994/530, 1995/444, 1996/389, 1997/558, 1998/490 and 2221, 1999/544, 2000/977 (W.47) and 2001/1359 (W.87)

⁽⁴⁾ 1998 c. 38

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 principal Regulations”) which regulate the terms upon which general dental services are provided under the National Health Service Act 1977.

Regulation 6 provides for the establishment of a list of those dentists providing treatment to patients under general anaesthesia as part of general dental services. This includes a right of appeal to the National Assembly for Wales where a dentist is denied inclusion in a general anaesthesia list because a Health Authority has determined that his premises are not proper and sufficient for the provision of dental treatment under general anaesthesia.

Regulation 5 introduces a similar right of appeal to the National Assembly for Wales for a dentist who is denied inclusion in a dental list because a Health Authority has determined that his premises are not proper and sufficient for the provision of general dental services.

Regulation 7 amends Schedule 1 to the principal Regulations which sets out the terms of service for dentists employed in the National Health Service. The amendment provides that treatment under general anaesthesia may not be provided unless the dentist is on the Health Authority’s general anaesthesia list, that general anaesthesia may not form part of treatment that mixes general dental services and private dentistry, and that dentists on the general anaesthesia list must permit inspections of their premises. It also substitutes new categories of those who are permitted to administer general anaesthesia for the purposes of general dental services.

Regulation 7 also amends the terms of service within Schedule 1 so that a dentist is required to ask to see evidence in support of a claim that a patient is entitled to a free dental examination or any report on such an examination.