

2006 No. 562

NATIONAL HEALTH SERVICE, ENGLAND AND  
WALES

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

|                               |                        |
|-------------------------------|------------------------|
| <i>Made</i> - - - - -         | <i>3rd March 2006</i>  |
| <i>Laid before Parliament</i> | <i>10th March 2006</i> |
| <i>Coming into force</i> - -  | <i>1st April 2006</i>  |



**2006 No. 562**

**NATIONAL HEALTH SERVICE, ENGLAND AND  
WALES**

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

|                               |                        |
|-------------------------------|------------------------|
| <i>Made</i> - - - -           | <i>3rd March 2006</i>  |
| <i>Laid before Parliament</i> | <i>10th March 2006</i> |
| <i>Coming into force</i> - -  | <i>1st April 2006</i>  |

**CONTENTS**

**PART 1  
GENERAL**

1. Citation, commencement and application
2. Interpretation

**PART 2**

**TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL DENTAL SERVICES  
PROVIDED BEFORE 1ST APRIL 2006**

3. Interpretation of Part 2
4. Applications for general dental services
5. Investigation of outstanding complaints
6. Complaints relating to general dental services made after 31st March 2006
7. Patient information leaflet
8. Recovery of Overpayments
9. Remuneration of Dentists
10. Emergency dental services
11. Service of documents
12. Repair and replacement of restorations
13. Violent patients
14. Referral to another dentist, to a hospital or other service and treatment on referral
15. Inability to complete treatment
16. Care and Treatment summaries
17. Occasional treatment
18. Records

PART 3  
TRANSITIONAL PROVISIONS IN RESPECT OF PERSONAL DENTAL SERVICES  
PROVIDED BEFORE 1ST APRIL 2006

19. Interpretation of Part 3
20. Applications for personal dental services
21. Investigation of outstanding complaints
22. Complaints relating to personal dental services made after 31st March 2006
23. Patient information leaflet
24. Overpayments under a pilot scheme
25. Remuneration of pilot scheme providers
26. Violent patients
27. Repair or replacement of restorations
28. Provision of information
29. Records
30. Disputes

PART 4  
TRANSITIONAL ARRANGEMENTS: THE NATIONAL HEALTH SERVICE (SERVICE  
COMMITTEES AND TRIBUNAL) REGULATIONS 1992

31. Interpretation
32. Cases where no decision has been made before the relevant date as to whether disciplinary action should be taken (regulation 4)
33. Referrals to investigating discipline committees before the relevant date (regulation 5)
34. Determination of a Primary Care Trust or the Secretary of State made before the relevant date (regulations 8, 9, 10 and 11)
35. Determination of a Primary Care Trust made on or after the relevant date (regulation 8)
36. Appeals to the Secretary of State against determinations of Primary Care Trusts (regulations 9, 10 and 11)
37. Functions of Local Dental Committees

PART 5  
TRANSITIONAL PROVISIONS: ABOLITION OF THE BOARD

38. Functions of the Board in respect of general dental services
39. Appeals from decisions of the Board
40. Local Dental Committees in respect of appeals
41. Functions of the Board in respect of personal dental services
42. Rights and transfer of liabilities of the Board
43. Transfer of Board officers
44. Transfer of property
45. Outstanding accounts of the Board

PART 6  
MISCELLANEOUS TRANSITIONAL, CONSEQUENTIAL AND REVOCATIONS  
PROVISIONS

46. Transitional provision in relation to the Family Health Services Appeal Authority (Procedure) Rules 2001
47. Amendment to the Transitional Order
48. Minor and consequential amendments
49. Revocations

---

SCHEDULE 1 — MINOR AND CONSEQUENTIAL AMENDMENTS  
SCHEDULE 2 — MINOR AND CONSEQUENTIAL AMENDMENTS  
RELATING TO THE ABOLITION OF THE BOARD  
SCHEDULE 3 — REVOCATIONS

The Secretary of State makes the following Order in exercise of the powers conferred by sections 173, 195, 200 and 201 of the Health and Social Care (Community Health and Standards) Act 2003(a).

PART 1  
GENERAL

**Citation, commencement and application**

1.—(1) This Order may be cited as the General Dental Services, Personal Dental Services and Abolition of the Dental Practice Board Transitional and Consequential Provisions Order 2006 and shall come into force on 1st April 2006.

(2) Subject to paragraphs (3) to (5), this Order applies only in relation to England.

(3) Articles 42 to 45 (matters relating to the abolition of the Board) apply to England and Wales.

(4) The amendments and revocations of provisions made by article 48 and Schedule 1 (amendments) and article 49 and Schedule 3 (revocations) have no application in relation to Wales but, subject to that, the extent of those provisions is the same as that of the provision amended or revoked.

(5) The amendment of provisions made by article 48 and Schedule 2 (which relate to the abolition of the Dental Practice Board) has the same extent as the provision amended.

**Interpretation**

2.—(1) In this Order—

“the 1977 Act” means the National Health Service Act 1977(b);

“the 1992 Regulations” means the National Health Service (General Dental Services) Regulations 1992(c);

“the Board” means the Dental Practice Board;

---

(a) 2003 c.43.  
(b) 1977 c.49.  
(c) S.I. 1992/661.

“capitation arrangement” means an arrangement made under paragraph 5 of Schedule 1 to the 1992 Regulations;

“care and treatment” means—

(a) all proper and necessary care which a dentist usually undertakes for a patient and which the patient is willing to undergo, including advice, planning of treatment and preventive care; and

(b) treatment;

“dental list” means the list of dental practitioners that had effect on 31st March 2006 who undertook to provide general dental services for persons in its area kept by a Primary Care Trust under regulations made under section 36(1)(a) of the 1977 Act;

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005(a);

“general dental services contract” means a contract under section 28K of the 1977 Act (general dental services contracts)(b);

“NHS Business Services Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(c);

“NHS Charges Regulations” means the National Health Service (Dental Charges) Regulations 2005(d);

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) Regulations 2005(e);

“PDS Directions” means the Directions to Health Authorities concerning the implementation of pilot schemes (personal dental services)(f);

“personal dental services agreement” means an agreement for primary dental services under section 28C of the 1977 Act (personal medical or dental services)(g);

“pilot scheme agreement” means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997(h);

“pilot scheme provider” means the person or persons, other than a Primary Care Trust, who provide personal dental services under a pilot scheme agreement and who is a party or are parties to that agreement;

“the Transitional Order” means the General Dental Services and Personal Dental Services Transitional Provisions Order 2005(i); and

“SDR” means the Statement of Dental Remuneration determined and published by the Secretary of State under regulation 19 of the 1992 Regulations(j), as that statement had effect on 31st March 2006.

(2) In this Order, the use of the term “it” in relation to the contractor shall be deemed to include a reference to a contractor that is an individual dental practitioner or two or more individuals practising in partnership and related expressions shall be construed accordingly.

---

(a) S.I. 2005/3361.

(b) Section 28K was inserted into the 1977 Act by section 172 of the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”).

(c) S.I. 2005/2414.

(d) S.I. 2005/3477.

(e) S.I. 2005/3373.

(f) The Directions were made in August 1998 and are available on [www.dh.gov.uk](http://www.dh.gov.uk).

(g) Section 28C was inserted into the 1977 Act by section 21(1) of the National Health Service (Primary Care) Act 1997 (c.46) and has been amended by the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 3, Part 1 and the 2003 Act, Schedule 11, paragraphs 7 and 14 of Schedule 14.

(h) 1997 c.47.

(i) S.I. 2005/3435.

(j) The Statement of Dental Remuneration is available on [www.dh.gov.uk](http://www.dh.gov.uk).

**PART 2**  
**TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL DENTAL  
SERVICES PROVIDED BEFORE 1ST APRIL 2006**

**Interpretation of Part 2**

3. For the purposes of this Part—

“relevant dental practitioner” means a dental practitioner who enters into—

- (a) a general dental services contract as a consequence of article 4 or 5 of the Transitional Order; or
- (b) a personal dental services agreement as a consequence of article 15, 16 or 17 of the Transitional Order; and

“succeeding contractor” means the contractor which is a party to—

- (a) the general dental services contract which—
  - (i) the relevant dental practitioner has entered into as an individual or as one of two or more individuals practising in partnership, or
  - (ii) has been entered into by a dental corporation of which the relevant dental practitioner is a director, chief executive or secretary; or
- (b) the personal dental services agreement which the relevant dental practitioner has entered into as a consequence of article 15, 16 or 17 of the Transitional Order.

**Applications for general dental services**

4. Where, before 1st April 2006—

- (a) a person has made an application to a relevant dental practitioner to receive general dental services<sup>(a)</sup> in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998<sup>(b)</sup>; and
- (b) that application has not been finally determined before that date,

that application shall be treated as a request made to the succeeding contractor for services under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations or under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations.

**Investigation of outstanding complaints**

5.—(1) Subject to paragraph (2), where before 1st April 2006—

- (a) a complaint had been made under paragraph 31A of Schedule 1 to the 1992 Regulations<sup>(c)</sup> by or on behalf of a patient or former patient of a relevant dental practitioner; and
- (b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 31A of that Schedule had not concluded,

that complaint must, on or after 1st April 2006, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31st March 2006.

---

(a) “General dental services” has the meaning given to it in section 35(1A) of the 1977 Act.

(b) S.I. 1998/2222.

(c) Paragraph 31A was inserted into the 1992 Regulations by S.I. 1996/704.

(2) In a case where there is no succeeding contractor the complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31st March 2006.

(3) The persons referred to in paragraph (2) are—

- (a) subject to paragraph (b), the person or persons who was or were the former partner or partners of the dental practitioner who provided care and treatment under a continuing care or capitation arrangement in respect of the complainant, if he or they meet the requirements in paragraph (4);
- (b) in the case where the person or persons specified in paragraph (a) satisfy the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him or them, that Primary Care Trust; or
- (c) in any other case, the Primary Care Trust on whose dental list the dental practitioner was included for the purposes of providing general dental services to the complainant.

(4) The requirements referred to in paragraph (3)(a) are that the former partner or partners—

- (a) has or have entered into a general dental services contract, as an individual dental practitioner or as one of two or more individuals practising in partnership, with the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;
- (b) is a director, chief executive or secretary of the dental corporation which has entered into a general dental services contract with the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;
- (c) has or have entered into a personal dental services agreement with the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant; or
- (d) is a director, chief executive or secretary of the qualifying body which has entered into a personal dental services agreement with the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one contractor, the contractors concerned shall—

- (a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and
- (b) if they are unable to reach agreement, refer the matter to the Primary Care Trust on whose dental list their former partner was included for the purposes of providing general dental services to the complainant and that Primary Care Trust shall investigate the complaint itself.

(6) Where, under this article, a complaint falls to be investigated by a Primary Care Trust the investigation shall be carried out in accordance with the National Health Service (Complaints) Regulations 2004<sup>(a)</sup>.

### **Complaints relating to general dental services made after 31st March 2006**

6.—(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor under the term of its—

- (a) general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations; or

---

(a) S.I. 2004/1768.

- (b) personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations,

shall apply to any complaint which a patient or former patient of the relevant dental practitioner to whom it is a succeeding contractor could have made (but did not make) on or before 31st March 2006 under paragraph 31A of Schedule 1 to the 1992 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract or, as the case may be, the agreement.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Primary Care Trust in whose area the general dental services were provided.

(3) Where a complaint falls to be investigated by a Primary Care Trust as a consequence of paragraph (2), the investigation shall be carried out in accordance with the National Health Service (Complaints) Regulations 2004.

### **Patient information leaflet**

7.—(1) This article applies where a relevant dental practitioner had compiled a patient information leaflet which met the requirements of paragraph 32 of Schedule 1 and Schedule 5 to the 1992 Regulations<sup>(a)</sup> on 31st March 2006 and that leaflet was, on that date, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1st April 2006 by the succeeding contractor need not, until 1st August 2006, include all the information specified in the terms of—

- (a) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations; or
- (b) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the general dental services contract or the personal dental services agreement make available to patients in written form the information specified in paragraph (4) together with the patient information leaflet referred to in paragraph (1).

(4) The information referred to in paragraph (3) is information regarding—

- (a) the services available under the general dental services contract or the personal dental services agreement;
- (b) the normal surgery days and hours of the practice;
- (c) the arrangements for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;
- (d) if the services in sub-paragraph (c) are not provided by the contractor, the fact that the Primary Care Trust referred to in sub-paragraph (g) is responsible for commissioning the services;
- (e) how patients may make a complaint or comment on the provision of services;
- (f) the telephone number of NHS Direct and details of NHS Direct online; and
- (g) the name, postal and website address and telephone number of the Primary Care Trust which is a party to the contract or agreement and from whom details of primary dental services in the area may be obtained.

---

(a) Relevant amending instruments are S.I. 2001/2421 and 2002/2469.



## **Recovery of Overpayments**

8.—(1) Where, before 1st April 2006, a dental practitioner had admitted an overpayment drawn to its attention by a Primary Care Trust or the Board under regulation 22 of the 1992 Regulations (recovery of overpayments) but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 1st April 2006, shall notwithstanding the revocation of the 1992 Regulations continue to be recoverable by that Primary Care Trust and shall be treated as a debt owed by that dental practitioner to that Primary Care Trust.

(2) Notwithstanding the revocation of the 1992 Regulations, where a Primary Care Trust considers that a payment has been made to a dental practitioner under the SDR when it was not due and that alleged overpayment has not been drawn to the dental practitioner's attention by the Board or the Primary Care Trust before 1st April 2006, that Primary Care Trust may draw the overpayment to the attention of the dental practitioner and—

- (a) where the overpayment is admitted by him, the Primary Care Trust may recover the amount overpaid from him as a civil debt; and
- (b) where the overpayment is not admitted by him—
  - (i) the arrangements for appeals referred to in regulation 22(1)(b) of the 1992 Regulations as in force on 31st March 2006, as those arrangements had effect on 31st March 2006, shall apply,
  - (ii) if he does not appeal or appeals unsuccessfully, the Primary Care Trust may recover the amount of the civil debt.

(3) Where, before 1st April 2006, a Primary Care Trust has drawn a possible overpayment under the SDR to the attention of a dental practitioner, and the overpayment has not been admitted by him, then notwithstanding the revocation of the 1992 Regulations—

- (a) the arrangements for appeals referred in regulation 22(1)(b) of the 1992 Regulations as in force on 31st March 2006, as those arrangements had effect on 31st March 2006, shall apply; and
- (b) if he has not appealed or does not appeal, or is unsuccessful in an appeal, the Primary Care Trust may recover the amount as a civil debt.

## **Remuneration of Dentists**

9.—(1) Notwithstanding the revocation of the 1992 Regulations, claims may still be made for payments under the SDR by a dental practitioner who may be entitled to such a payment (claims by virtue of article 38 are to be made to the NHS Business Services Authority), provided that the claim is made within any period stipulated in the SDR as being the period during which a claim for the payment is to be made.

(2) If a claim is made outside the stipulated period provided for in the SDR, the NHS Business Services Authority may extend that period for up to six months from the date on which the circumstances which gave rise to the claim first arose.

(3) Notwithstanding the revocation of the 1992 Regulations, as regards any claim for payment under the SDR which is made within the period stipulated in the SDR (whether before 1st April 2006 or by virtue of paragraph (1)) or within an extended period as provided for in paragraph (2), Parts 4, 5 and 5A of those Regulations shall continue to apply and have effect as they were in force on 31st March 2006 in respect of—

- (a) the approval and making of the payments;
- (b) the recovery of payments and overpayments; and
- (c) the payments in consequence of suspension or successful appeal,

in relation to general dental services provided before 1st April 2006.

### **Emergency dental services**

10. Notwithstanding the revocation of the 1992 Regulations, where arrangements made under regulation 14 of the 1992 Regulations are in place immediately before 1st April 2006, those arrangements shall continue to subsist until terminated by the Primary Care Trust or the dentist in accordance with the terms of those arrangements.

### **Service of documents**

11. Where any notice or other document is required to be given or sent as a consequence of regulation 32 of the 1992 Regulations<sup>(a)</sup> and has not been given or sent before 1st April 2006, notwithstanding the revocation of the 1992 Regulations, regulation 32 of those Regulations shall continue to have effect as in force on 31st March 2006 in respect of such a notice or document.

### **Repair and replacement of restorations**

12. Where, on or before 31st March 2006, a relevant dental practitioner has provided a restoration and that restoration requires repair or replacement which he would have been required to repair or replace under paragraph 7 of Schedule 1 to the 1992 Regulations, the succeeding contractor shall repair or replace the restoration in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations.

### **Violent patients**

13.—(1) Where—

- (a) a person commits an act of violence in the circumstances specified in paragraph 11A(1)(a) of Schedule 1 to the 1992 Regulations<sup>(b)</sup>; and
- (b) the Primary Care Trust has not informed the person concerned on or before 31st March 2006 that the dentist no longer wishes to provide services to that person,

notwithstanding the revocation of the 1992 Regulations and subject to paragraph (2), paragraph 11A(4) of that Schedule shall continue to have effect as in force on 31st March 2006 in respect of the person concerned.

(2) The notification given in accordance with paragraph 11A(4) of Schedule 1 to the 1992 Regulations on or after 1st April 2006 shall be treated as though it were a notification that the succeeding contractor does not wish to provide care and treatment to the person concerned under the general dental services contract or the personal dental services agreement.

### **Referral to another dentist, to a hospital or other service and treatment on referral**

14.—(1) Where a patient has been referred on or before 31st March 2006 in accordance with paragraph 12(1) of Schedule 1 to the 1992 Regulations, and—

- (a) the details specified in sub-paragraph (2) of that paragraph have not been forwarded on or before 31st March 2006; or
- (b) the dentist has not indicated in his claim for remuneration that the patient has been referred,

notwithstanding the revocation of the 1992 Regulations, paragraph 12(2) of Schedule 1 to those Regulations shall continue to have effect as in force on 31st March 2006 in respect of the referral of that patient.

(2) Where, on or before 31st March 2006, a relevant dental practitioner has provided a restoration in the course of treatment on referral and that restoration requires repair or replacement

---

<sup>(a)</sup> Regulation 32 was substituted by regulation 6 of S.I. 1993/2209.

<sup>(b)</sup> Paragraph 11A was inserted into Schedule 1 to the 1992 Regulations by S.I. 1998/1648 and amended by 2002/2469.

which he would have been required to repair or replace under paragraph 13 of Schedule 1 to the 1992 Regulations, the succeeding contractor shall repair or replace the restoration in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreement Regulations.

### **Inability to complete treatment**

15.—(1) Where a dentist—

- (a) owing to any cause beyond his control, is unable to complete any care and treatment which has been commenced under a continuing care arrangement or a capitation arrangement or treatment on referral on or before 31st March 2006; and
- (b) has not notified the Board on or before 31st March 2006 in accordance with paragraph 14 of Schedule 1 to the 1992 Regulations,

notwithstanding the revocation of the 1992 Regulations, paragraph 14 of Schedule 1 to those Regulations shall, subject to paragraph (2), continue to have effect as in force on 31st March 2006 in respect of that incomplete care and treatment.

(2) Where paragraph (1) applies, on or after 1st April 2006, paragraph 14 of Schedule 1 to the 1992 Regulations shall be read as if the reference to the Board in that paragraph were a reference to the NHS Business Services Authority.

### **Care and Treatment summaries**

16. Where, on or before 31st March 2006, a patient requested a summary of the care and treatment in accordance with paragraph 15 of Schedule 1 to the 1992 Regulations and the dentist has not provided that summary before 1st April 2006, notwithstanding the revocation of the 1992 Regulations, paragraph 15 of Schedule 1 to those Regulations shall continue to have effect as in force on 31st March 2006 in respect of that request.

### **Occasional treatment**

17.—(1) Where a dentist—

- (a) due to any cause beyond his control, is unable to complete a course of occasional treatment which he has commenced on or before 31st March 2006; and
- (b) has not notified the Board on or before 31st March 2006 in accordance with paragraph 17(3) of Schedule 1 to the 1992 Regulations<sup>(a)</sup>,

notwithstanding the revocation of the 1992 Regulations, paragraph 17(3) of Schedule 1 to those Regulations shall, subject to paragraph (2), continue to have effect as in force on 31st March 2006 in respect of that incomplete occasional treatment.

(2) Where paragraph (1) applies, on or after 1st April 2006, paragraph 17(3) of Schedule 1 to the 1992 Regulations shall be read as if the reference to the Board were a reference to the NHS Business Services Authority.

(3) Where—

- (a) on or before 31st March 2006, a relevant dental practitioner has provided conservative treatment of permanent or retained deciduous teeth by way of any filling or root filling; and
- (b) on or after 1st April 2006 that filling or root filing requires repair or replacement which he would have been required to repair or replace under paragraph 17 of Schedule 1 to the 1992 Regulations,

---

(a) Paragraph 17 of Schedule 1 to the 1992 Regulations was substituted by S.I. 2001/1746.

the succeeding contractor shall repair or replace the filling or root filling in accordance with the terms of the contract giving effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations or the terms of the agreement giving effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations.

(4) Where, on or before 31st March 2006—

- (a) a patient has been referred in respect of occasional treatment in accordance with paragraph 18(1) of Schedule 1 to the 1992 Regulations; and
- (b) the dentist has not complied with the requirements specified in sub-paragraph (2) of that paragraph,

notwithstanding the revocation of the 1992 Regulations, paragraph 18(2) and (3) of Schedule 1 to those Regulations shall continue to have effect as in force on 31st March 2006 in respect of the referral of that patient.

### **Records**

**18.** Notwithstanding the revocation of the 1992 Regulations, a dentist shall continue to keep a record in respect of the matters referred to in paragraph 25(1) of Schedule 1 to the 1992 Regulations (records) and that paragraph and paragraph 41 of that Schedule—

- (a) subject to paragraph (b), shall continue to have effect as in force on 31st March 2006 to such a record until 1st April 2008; and
- (b) shall have effect as if the reference to the Board in those paragraphs were a reference to the NHS Business Services Authority.

## **PART 3**

### **TRANSITIONAL PROVISIONS IN RESPECT OF PERSONAL DENTAL SERVICES PROVIDED BEFORE 1ST APRIL 2006**

#### **Interpretation of Part 3**

**19.** In this Part—

“relevant pilot scheme provider” means a person or persons, other than a Primary Care Trust, who provided personal dental services under a pilot scheme agreement and who was a party or parties to that agreement; and

“succeeding contractor” means the contractor which is a party to—

- (a) the general dental services contract which the relevant pilot scheme provider has entered into as a consequence of article 6 of the Transitional Order; or
- (b) the personal dental services agreement which the relevant pilot scheme provider has entered into as a consequence of article 14 of the Transitional Order.

#### **Applications for personal dental services**

**20.** Where, before 1st April 2006—

- (a) a person has made an application to a relevant dental practitioner to receive personal dental services<sup>(a)</sup> in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998<sup>(b)</sup>; and
- (b) that application has not been finally determined before that date,

---

(a) “Personal dental services” has the meaning given to it in section 28C(7) of the 1977 Act prior to its repeal by 2003 Act.  
(b) S.I. 1998/2222.

that application shall be treated as a request made to the succeeding contractor for services under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations or under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations.

### **Investigation of outstanding complaints**

**21.**—(1) Subject to paragraph (2), where before 1st April 2006 a complaint had been made in accordance with the provisions in the pilot scheme agreement which give effect to the procedure set out in the PDS Directions, that complaint must, from 1st April 2006 be investigated or continue to be investigated by the succeeding contractor in accordance with the terms of the pilot scheme agreement as it had effect on 31st March 2006.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Primary Care Trust in whose area the personal dental services were provided.

(3) Where a complaint falls to be investigated by a Primary Care Trust as a consequence of paragraph (2), the investigation shall be carried out in accordance with the National Health Service (Complaints) Regulations 2004(a).

### **Complaints relating to personal dental services made after 31st March 2006**

**22.**—(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor—

- (a) under the terms of its personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations; or
- (b) under the terms of its general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations,

shall apply to any complaint which a patient or former patient of the relevant pilot scheme provider to whom it is a succeeding contractor could have made (but did not make) on or before 31st March 2006 under the pilot scheme agreement as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the agreement or, as the case may be, the contract.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Primary Care Trust in whose area the personal dental services were provided.

(3) Where a complaint falls to be investigated by a Primary Care Trust as a consequence of paragraph (2), the investigation shall be carried out in accordance with the National Health Service (Complaints) Regulations 2004.

### **Patient information leaflet**

**23.**—(1) This article applies where a relevant pilot scheme provider had produced a pilot leaflet in accordance with the terms in the pilot scheme agreement which give effect to the requirements in the PDS Directions and that leaflet was, on 31st March 2006, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1st April 2006 by the succeeding contractor need not, until 1st August 2006, include all the information specified in the terms of—

- (a) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations; or
- (b) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the personal dental services agreement or the general dental services contract make available to

---

(a) S.I. 2004/1768.

patients in written form the information specified in paragraph (4) together with the pilot leaflet referred to in paragraph (1).

- (4) The information referred to in paragraph (3) is information regarding—
- (a) the services available under the personal dental services agreement or the general dental services contract;
  - (b) the normal surgery days and hours of the practice;
  - (c) the arrangement for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;
  - (d) if the services referred to in sub-paragraph (c) are not provided by the contractor, the fact that the Primary Care Trust referred to in sub-paragraph (g) is responsible for commissioning the services;
  - (e) the telephone number of NHS Direct and details of NHS Direct online;
  - (f) how patients may make a complaint or comment on the provision of services; and
  - (g) the name, postal and website address and telephone number of the Primary Care Trust with whom the contractor is a party to the agreement or contract.

#### **Overpayments under a pilot scheme**

24.—(1) Where, on or before 31st March 2006, a pilot scheme provider has admitted an overpayment drawn to its attention by the Primary Care Trust or the Board but the overpayment, or any part of it, had not been recovered, the amount overpaid, or any part of it not recovered before 31st March 2006, shall be recoverable by the Primary Care Trust in accordance with the arrangements for the recovery of overpayments provided for in the pilot scheme agreement as it had effect on 31st March 2006, and—

- (a) the terms of the pilot scheme agreement shall apply for the purposes of the recovery of such an overpayment; and
- (b) the amount of the overpayment shall be treated as a debt owed by that pilot scheme provider to the Primary Care Trust.

(2) Where the Primary Care Trust considers that a payment had been made to a pilot scheme provider under the terms of the pilot scheme agreement when it was not due and that alleged overpayment has not been drawn to the pilot scheme provider's attention by the Board or the Primary Care Trust on or before 31st March 2006, that Primary Care Trust may draw the overpayment to the attention of the pilot scheme provider by notice, and—

- (a) where the overpayment is admitted by the pilot scheme provider, the Primary Care Trust may recover the amount overpaid from it as a civil debt; and
- (b) where the overpayment is not admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31st March 2006 shall continue to apply in respect of the recovery of the amount of the possible overpayment.

(3) Where, before 1st April 2006, a Primary Care Trust has drawn a possible overpayment to the attention of the pilot scheme provider and the overpayment has not been admitted by the pilot scheme provider, the arrangements for the recovery of disputed overpayments as provided for in the pilot scheme agreement as it had effect on 31st March 2006 shall continue to apply in respect of the recovery of the amount of the possible overpayment.

(4) For the purposes of the application of this article, a reference to the Board in a pilot scheme agreement shall be read as including a reference to the NHS Business Services Authority.

(5) This article is without prejudice to any arrangement for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.



### **Remuneration of pilot scheme providers**

25.—(1) Subject to paragraphs (2) and (3), claims for remuneration under the terms of a pilot scheme agreement may still be made and acceded to in accordance with a pilot scheme agreement, where a pilot scheme provider is entitled to a payment—

- (a) under the agreement; or
- (b) as a consequence of the termination of the agreement,

and the claim is made or deemed to have been made within any period stipulated in the pilot scheme agreement as being the period during which a claim for payment is to be made.

(2) In a case where no period is specified for the making of a claim for payment in the pilot scheme agreement or a claim is made outside the specified period, the Primary Care Trust with which the pilot scheme provider was a party to the agreement (or, where appropriate, the NHS Business Services Authority acting on its behalf) may agree to determine such claims for a period up to six months from the date on which the circumstances which gave rise to the claim first arose.

(3) This article is without prejudice to any arrangements for the recovery of dental charges set out in directions under sections 28E(3A) and 28N of the 1977 Act.

### **Violent patients**

26. Where—

- (a) on or before 31st March 2006, a pilot patient (within the meaning of direction 2 of the PDS Directions) has committed an act of violence in the circumstances specified in the pilot scheme agreement which give effect to direction 8(2)(a) of the PDS Directions;
- (b) the pilot scheme provider has notified the Primary Care Trust that he wishes the provision of personal dental services for that pilot patient to be terminated immediately; and
- (c) the Primary Care Trust has not informed the person concerned on or before 31st March 2006 that the pilot scheme provider wishes the provision of personal dental services for that pilot patient to be terminated,

the Primary Care Trust shall take such steps to inform that person that the relevant pilot scheme provider does not wish to provide, on or after 1st April 2006, primary dental services to that person under the personal dental services agreement or the general dental services contract.

### **Repair or replacement of restorations**

27. Where—

- (a) on or before 31st March 2006, a restoration is provided in the course of performing personal dental services by a relevant pilot scheme provider; and
- (b) on or after 1st April 2006, the restoration requires repair or replacement which that provider would have been required to repair or replace under the terms in the pilot scheme agreement which gave effect to direction 11 of the PDS Directions,

the succeeding contractor shall repair or replace the restoration in accordance with the terms of the personal dental services agreement which give effect to paragraph 12 of Schedule 3 to the PDS Agreements Regulations or the terms of the general dental services contract which give effect to paragraph 11 of Schedule 3 to the GDS Contracts Regulations.

### **Provision of information**

28.—(1) Where—

- (a) a course of treatment is completed by a pilot scheme provider on or before 31st March 2006; and
- (b) the period in which the information in respect of that course of treatment is to be submitted to the Board has not expired on 1st April 2006,

the period in which that information is to be submitted and the manner of submission of that information is the period and manner which is specified in the terms of the pilot scheme agreement which give effect to paragraph 12 of Schedule 1 to the PDS Directions.

(2) Where paragraph (1) applies, the succeeding contractor shall provide such information as is reasonably required—

- (a) as may have been requested by the Board on or before 31st March 2006, to the NHS Business Services Authority; or
- (b) as requested by the NHS Business Services Authority on or after 1st April 2006.

(3) For the purposes of the application of paragraphs (1) and (2), any reference to the Board in a pilot scheme agreement shall be read as including a reference to the NHS Business Services Authority.

## **Records**

**29.** A pilot scheme provider shall continue to keep records in respect of services provided under the pilot scheme agreement in accordance with the terms of that agreement and such terms shall continue to apply to such records until 1st April 2008.

## **Disputes**

**30.—**(1) Where a dispute in respect of a pilot scheme agreement is pending on 31st March 2006 under the NHS dispute resolution procedure or a procedure specified in the terms of the pilot scheme agreement that gives effect to direction 19 of, and Schedule 3 to, the PDS Directions, the adjudicator shall proceed to determine the dispute in accordance with the dispute resolution procedure that had effect on 31st March 2006 in respect of that dispute.

(2) In this article, the expression “adjudicator” means—

- (a) in the case of a pilot scheme agreement that gives effect to the procedure specified in Schedule 3 to the PDS Directions, the person appointed by the Secretary of State; and
- (b) in the case of a pilot scheme provider who is a health service body, the Secretary of State or a person appointed by the Secretary of State under section 4(5) of the National Health Service and Community Care Act 1990**(a)**.

# **PART 4**

## **TRANSITIONAL ARRANGEMENTS: THE NATIONAL HEALTH SERVICE (SERVICE COMMITTEES AND TRIBUNAL) REGULATIONS 1992**

### **Interpretation**

**31.—**(1) In this Part—

“the Service Committees Regulations” means the National Health Service (Service Committees and Tribunal) Regulations 1992**(b)**;

“amendments” in respect of any regulation or regulations in the Service Committees Regulations means amendments made to that regulation or those regulations by paragraph 3 of Schedule 1 to this Order;

“appropriate PCT” has the same meaning as in the Service Committees Regulations;

“contracting PCT” means a Primary Care Trust that has entered into—

- (a) a general dental services contract with—

---

(a) 1990 c.19.

(b) S.I. 1992/664 as amended by S.I. 1996/703, 1998/674, 2002/2469 and 2003/1397.



- (i) a dentist who is the subject of the allegation,
  - (ii) a partnership, where a dentist who is the subject of the allegation is a partner, or
  - (iii) a dental corporation, where a dentist who is the subject of the allegation is a director, chief executive or secretary of that corporation; or
- (b) a personal dental services agreement with—
- (i) a dentist who is the subject of the allegation, or
  - (ii) a qualifying body, where a dentist who is the subject of the allegation is a director, chief executive or secretary of that body;

“dentist” has the same meaning as in the Service Committees Regulations;

“the Performers List PCT” means the Primary Care Trust in whose dental performers list the dentist’s name appears on 1st April 2006;

“Performers Lists Regulations” means the National Health Service (Performers Lists) Regulations 2004(a);

“relevant contractor” means a party to a general dental services contract or personal dental services agreement with a contracting PCT, where that contractor is—

- (a) a dentist who is the subject of the allegation;
- (b) a partnership, where a dentist who is or was the subject of the allegation is a partner in that partnership; or
- (c) a dental corporation or qualifying body, where a dentist who is or was the subject of the allegation is a director, chief executive or secretary of that corporation or body; and

“relevant date” means 1st April 2006.

(2) Unless the context otherwise requires, any reference in this Part to—

- (a) a numbered regulation is to the regulation bearing that number in the Service Committees Regulations; and
- (b) a numbered Schedule is to the Schedule to the Service Committees Regulations bearing that number.

**Cases where no decision has been made before the relevant date as to whether disciplinary action should be taken (regulation 4)**

**32.**—(1) Where, before the relevant date, or on or after the relevant date in respect of a matter that occurred before the relevant date, a Primary Care Trust receives, or has received, information that could amount to an allegation that a dentist had failed to comply with his terms of service and—

- (a) that Trust, or its reference committee, has not taken a final decision pursuant to regulation 4(1) before the relevant date as to whether it will take no action or take one or both of the courses of action set out in regulation 4(2); and
- (b) any time limit specified in regulation 6 has not expired,

paragraph (2) shall apply.

(2) Where this paragraph applies, the Primary Care Trust shall—

- (a) if it is the appropriate PCT, continue to be the appropriate PCT for the purposes of the Service Committees Regulations, and consider and take such action as it sees fit pursuant to the Service Committees Regulations, subject to article 35, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; or
- (b) if it is not the appropriate PCT, forward the information to that Trust as soon as is reasonably practicable, and that Trust shall consider the information received and take such action as it sees fit pursuant to the Service Committees Regulations, subject to the

---

(a) S.I. 2004/585; as amended by S.I. 2004/2694 and 2005/502, 893 and 3491.

time limits specified in the Service Committees Regulations, and article 35, as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect.

(3) If the appropriate PCT, or its reference committee, decides, pursuant to paragraph (2)(a) or (2)(b), to refer the matter to the discipline committee of another Primary Care Trust (B) in accordance with regulation 4(2)(a) or (7)—

- (a) that Primary Care Trust (B) shall investigate the matter and report to the appropriate PCT as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect; and
- (b) the appropriate PCT shall be entitled, subject to article 35, to take any action it could have taken pursuant to the Service Committees Regulations as if those amendments had not taken effect.

#### **Referrals to investigating discipline committees before the relevant date (regulation 5)**

33. Where a Primary Care Trust (A) has, before the relevant date, referred a matter in respect of a dentist to another Primary Care Trust (B) in accordance with regulation 4(2)(a) or (7) and—

- (a) that matter has not been finally determined by the discipline committee of that Primary Care Trust (B) before the relevant date—
  - (i) the discipline committee of that Primary Care Trust (B) shall investigate the matter and report to the Primary Care Trust (A) as if the amendments to regulations 2 to 8 and Schedules 2 and 4 had not taken effect, and
  - (ii) the Primary Care Trust (A) shall be entitled to take any action it could have taken pursuant to the Service Committees Regulations as if those amendments had not taken effect, subject to article 35; or
- (b) that Primary Care Trust (A) has received the report of the discipline committee of the Primary Care Trust (B) but has not yet determined what (if any) action to take as a result of the report, the Primary Care Trust (A) shall be entitled to take any action it could have taken pursuant to the Service Committees Regulations as if the amendments to regulations 2 to 8 had not taken effect, subject to article 35.

#### **Determination of a Primary Care Trust or the Secretary of State made before the relevant date (regulations 8, 9, 10 and 11)**

34.—(1) Where, before the relevant date, a Primary Care Trust (or where relevant, the Secretary of State) has determined pursuant to regulation 8(5)(a), regulation 9(3) or regulation 11 that an amount should be recovered from the dentist, in so far as any of that amount has not been recovered before the relevant date, it shall continue to be recoverable by the Primary Care Trust that was the appropriate PCT for the purposes of the Service Committees Regulations in respect of that matter, and it shall be treated as a debt owed by that dentist to that Trust.

(2) Where a contracting PCT has record of, or receives notification of, an adverse determination made before the relevant date pursuant to regulation 8, 9, 10, 11 or 12 in respect of a dentist (where, in the case of a determination under regulation 8, such a determination was not overturned on appeal), paragraph (3) shall apply without prejudice to any other rights the contracting PCT may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(3) Where this paragraph applies, the contracting PCT—

- (a) may take into account that adverse determination in relation to a relevant contractor if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations, whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement; but
- (b) shall not, pursuant to sub-paragraph (a), take into account any adverse determination that was made that occurred more than 6 years prior to the date upon which the contracting

PCT is considering terminating the general dental services contract or personal dental services agreement.

(4) Where a Performers List PCT has record of, or receives notification of, an adverse determination pursuant to regulation 8, 9, 10, 11 or 12 made before the relevant date in respect of a dentist (where, in the case of a determination under regulation 8, such a determination was not overturned on appeal) it may take that determination into account in determining what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

#### **Determination of a Primary Care Trust made on or after the relevant date (regulation 8)**

**35.—**(1) Where, on or after the relevant date, an appropriate PCT is determining what (if any) action to take pursuant to regulation 8 in accordance with provision made in this Part, it shall make such a determination in accordance with such limitation and modifications to that regulation as are specified in this article.

(2) The appropriate PCT may—

- (a) pursuant to regulation 8(1)(c)(i), determine that no further action should be taken;
- (b) pursuant to regulation 8(5)(a), determine that an amount shall be recovered from the dentist;
- (c) pursuant to regulation 8(5)(b), determine that it would have determined that the dentist should be required to submit estimates for the prior approval of the Board in respect of such treatment and during such period as the appropriate PCT specifies; or
- (d) pursuant to regulation 8(5)(c), determine that it would have warned the dentist to comply more closely with his terms of service in future, if those terms of service were still applicable,

and if it makes any one or more of the decisions specified in sub-paragraphs (b) to (d), it shall, after the period specified in regulation 8(11)(a) or (b) (as applicable) has expired, notify in writing the contracting PCT and the Performers List PCT (if any) of its decision and the reasons for it, if either one is a different Primary Care Trust to the appropriate PCT.

(3) Where, pursuant to paragraph (2)(b), the appropriate PCT determines that an amount should be recovered from the dentist, regulation 8(9) shall not apply and that amount shall be recoverable by the appropriate PCT and it shall be treated as a debt owed by that dentist to the appropriate PCT.

(4) Where the appropriate PCT has notified the contracting PCT that it has made any of the determinations specified in paragraph (2)(b) to (2)(d), or where the appropriate PCT is the contracting PCT, paragraph (5) shall apply without prejudice to any other rights the contracting PCT may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(5) Where this paragraph applies, the contracting PCT—

- (a) may, in relation to a relevant contractor, take into account the determination of the appropriate PCT if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations, whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement; but
- (b) shall not, pursuant to sub-paragraph (a), take into account any determination of an appropriate PCT that was made more than 6 years prior to the date upon which the contracting PCT is considering terminating the general dental services contract or personal dental services agreement.

(6) Where—

- (a) a Performers List PCT has received notification from an appropriate PCT pursuant to paragraph (2); or
- (b) where an appropriate PCT that has taken a decision pursuant to paragraph (2) is also the Performers List PCT,

it shall consider what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

**Appeals to the Secretary of State against determinations of Primary Care Trusts (regulations 9, 10 and 11)**

36.—(1) Where—

- (a) a dentist has appealed against a determination of a Primary Care Trust in accordance with regulation 9 before the relevant date, but that appeal has not been finally determined before that date; or
- (b) in respect of a determination made by a Primary Care Trust in accordance with regulation 8 before the relevant date, the time limit specified in regulation 9(2) for appealing that determination has not expired before the relevant date, and the dentist serves a notice of appeal on or after the relevant date but within the time limit specified in regulation 9(2),

that appeal shall be determined pursuant to regulations 9, 10, 11 and 12, as if the amendments to those regulations and Schedule 5 had not taken effect.

(2) Where an appropriate PCT has made a determination in respect of a dentist on or after the relevant date pursuant to this Part—

- (a) the dentist shall be entitled to appeal against that determination in accordance with regulation 9; and
- (b) that appeal shall be determined pursuant to regulations 9, 10, 11 and 12,

as if the amendments to those regulations and to Schedule 5 had not taken effect.

(3) Where, on or after the relevant date, the Secretary of State is determining pursuant to regulation 9, 10, 11 or 12 what (if any) action to take in respect of a dentist, she shall make a determination pursuant to those regulations as if the amendments to those regulations and to Schedule 5 had not taken effect and that determination shall have effect in accordance with this article.

(4) If, in accordance with paragraph (3), the Secretary of State determines pursuant to—

- (a) regulation 9(3)(d), that there has been an overpayment and, if so, what amount;
- (b) regulation 8(5)(a) and 9(3) or 11, that an amount shall be recovered from the dentist;
- (c) regulation 8(5)(c) and 9(3), that she would have warned the dentist to comply more closely with his terms of service in future, if those terms of service were still applicable; or
- (d) regulation 12, that she would have imposed a prior approval requirement on the dentist,

she shall, in addition to the persons specified in regulation 10(14), notify the Primary Care Trust specified in paragraph (5).

(5) The Secretary of State shall, pursuant to paragraph (4)(a) to (4)(d), notify the contracting PCT and the Performers List PCT (if any) of her determination if those Primary Care Trusts are different to the Primary Care Trust referred to in regulation 10(14).

(6) Where, pursuant to regulation 8(5)(a), 9(3) or 11, the Secretary of State has determined that an amount shall be recovered from a dentist she shall direct the appropriate PCT, to recover that amount from the dentist and that amount shall be a debt owed to that appropriate PCT.

(7) Where, pursuant to paragraph (5), the Secretary of State has notified the contracting PCT that she has taken any of the decisions specified in paragraph (4)(a) to (4)(d), whether or not the contracting PCT is also the appropriate PCT, paragraph (8) shall apply without prejudice to any other right the contracting PCT may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(8) Where this paragraph applies, the contracting PCT may, in relation to a relevant contractor, take into account the determination of the Secretary of State if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement.

(9) The contracting PCT shall not, pursuant to paragraph (8), take into account any notification received that relates to a determination that was made by the Secretary of State that occurred more than 6 years prior to the date upon which the contracting PCT is considering the matter pursuant to paragraph (8).

(10) Where a Performers List PCT has received notification from the Secretary of State pursuant to paragraph (4) or (5), whether or not the Performers List PCT is also the appropriate PCT, it shall consider what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.

### **Functions of Local Dental Committees**

37. Where—

- (a) a Local Dental Committee has, before the relevant date had any matter referred to it for its consideration that it had not finally determined before the relevant date; and
- (b) pursuant to this Part, that matter is to be determined by the Local Dental Committee on or after the relevant date,

the Local Dental Committee that is recognised by a Primary Care Trust pursuant to section 45B of the 1977 Act<sup>(a)</sup> (local dental committees) shall be the Committee to consider or determine the matter.

## **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.

---

<sup>(a)</sup> Section 45B is inserted into the 1977 Act by the 2003 Act, Schedule 11, paragraph 23.

(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>(a)</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,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>(b)</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

---

<sup>(a)</sup> Regulation 30A is inserted by regulation 4 of S.I. 1996/704.  
<sup>(b)</sup> S.I. 1998/2223 amended by S.I. 2002/2469.



Board Concerning Functions relating to Personal Dental Services Pilot Schemes<sup>(a)</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.

(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<sup>(b)</sup>.

(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<sup>(c)</sup>.

(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.

---

(a) 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).

(b) S.I. 1992/655.

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

(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 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.

## **PART 6**

### **MISCELLANEOUS TRANSITIONAL, CONSEQUENTIAL AND REVOCATIONS PROVISIONS**

#### **Transitional provision in relation to the Family Health Services Appeal Authority (Procedure) Rules 2001**

46. Notwithstanding the amendments made to the Family Health Services Appeal Authority (Procedure) Rules 2001(a) by paragraph 10 of Schedule 1, those Rules shall, in relation to any decision of a Primary Care Trust made before 1st April 2006, continue to apply as they had effect on 31st March 2006 and as if those amendments had not been made.

#### **Amendment to the Transitional Order**

47. For articles 4(3)(b) and 5(3)(b) (entitlement to a general dental services contract) and 16(2)(b) and 17(2)(b) (entitlement to a personal dental services agreement) of the Transitional Order, there shall be substituted—

“(b) on maternity or adoption leave and—

- (i) is or has been, for all or part of that leave, in receipt of payments in respect of the leave by virtue of Determination VI of the SDR, and
- (ii) the duration of that leave on that date does not exceed 52 weeks;

(ba) on paternity leave and is, on that date, in receipt of payments in respect of Determination VI of the SDR;”.

#### **Minor and consequential amendments**

48. The provisions listed in Schedules 1 and 2 are amended as there specified.

---

(a) S.I. 2001/3750.



**Revocations**

49. The provisions listed in Schedule 3 are revoked to the extent there specified.

Signed by authority for the Secretary of State for Health

Date 3rd March 2006

*Rosie Winterton*  
Minister of State,  
Department of Health

## MINOR AND CONSEQUENTIAL AMENDMENTS

**The Medicines (Pharmacy and General Sale – Exemption) Order 1980**

1.—(1) The Medicines (Pharmacy and General Sale – Exemption) Order 1980(a) shall be amended as provided in this paragraph.

(2) In article 4B (exemption for health professionals who supply medicinal products under a Patient Group Direction in order to assist doctors or dentists in providing national health services)(b)—

(a) in paragraph (2)(d)(ii)—

(i) in sub-paragraph (aa), after “primary medical services” insert “or primary dental services”, and

(ii) omit sub-paragraphs (a) and (b); and

(b) in paragraph (3), for sub-paragraph (a)(i) substitute—

“(i) in relation to England and Wales, the provision of primary dental services under Part 1 of the National Health Service Act 1977;”.

**The National Health Service Trusts (Membership and Procedure) Regulations 1990**

2.—(1) The National Health Service Trusts (Membership and Procedure) Regulations 1990(c) shall be amended as provided in this paragraph.

(2) In regulation 1 (citation, commencement and interpretation) omit the definition of “general dental practitioner”.

(3) In regulation 11 (disqualification for appointment of chairman and non-executive directors), in paragraph (1)(f)—

(a) omit paragraph (i);

(b) in paragraph (ii), after “primary medical services” insert “or primary dental services”; and

(c) in paragraph (iii)—

(i) after “a company that” insert “or a director of a body corporate that”, and

(ii) after “primary medical services” insert “or primary dental services”.

**The National Health Service (Service Committees and Tribunal) Regulations 1992**

3.—(1) Subject to articles 31 to 37, the National Health Service (Service Committees and Tribunal) Regulations 1992(d) shall be amended in accordance with this paragraph.

(2) In regulation 2 (interpretation)—

(a) omit the definitions of “the 1997 Act”, “assistant”, “the Board”, “Dental Advisory Committee”, “dental discipline committee”, “dental list”, “dental officer”, “Dental Regulations”, “dentists’ panel”, “deputy”, “estimate”, “prior approval requirement”, “salaried dentist”, “Statement of Dental Remuneration” and “treatment”;

---

(a) S.I. 1980/1924.

(b) Article 4B was inserted by S.I. 2000/1919 and amended by S.I. 2004/865, 1016, 2261 and 3038 and S.S.I. 2004/212.

(c) S.I. 1990/2024, amended by S.I. 2004/865; there are other amending instruments, but none are relevant.

(d) S.I. 1992/664.

- (b) for the definition of “Local Dental Committee”, “Local Optical Committee” and “Local Pharmaceutical Committee” substitute ““Local Optical Committee” and “Local Pharmaceutical Committee” mean the committees of those names recognised by the Primary Care Trust in relation to its locality under section 44 of the Act, and “Local Representative Committee” means either of those committees”;
- (c) in the definition of—
  - (i) “Part II service”, omit the words “general dental services”,
  - (ii) “practitioner”, for the words “a dentist” substitute “an”,
  - (iii) “relevant local representative committee”, omit paragraph (b), and
  - (iv) “terms of service”, omit paragraph (b); and
- (d) in paragraph (4), omit sub-paragraph (a).
- (3) In regulation 3 (establishment of committees), omit paragraph (1)(b).
- (4) In regulation 4 (provisions relating to the start of disciplinary proceedings) in paragraph (5)(a), omit “dental,”.
- (5) In regulation 5 (referral to investigating discipline committee), omit paragraph (3)(b).
- (6) In regulation 6 (time limits), omit paragraph (3)(b), (4) and (5).
- (7) In regulation 8 (determination of appropriate Health Authority or Primary Care Trust)—
  - (a) omit paragraph (5)(b) and (9); and
  - (b) in paragraphs (8) and (11), omit “, (b)”.
- (8) In regulation 9 (appeal to the Secretary of State)—
  - (a) in paragraph (1)(b), (3)(c) and (4)(b), omit “, (b)”;
  - (b) in paragraph (3)(c) and (4)(b), for “regulations 11 or 12” substitute “regulation 11”; and
  - (c) in paragraph (5), for “(5)(a), (b)”, substitute “(5)(a)”.
- (9) In regulation 10 (procedure on appeal)—
  - (a) in paragraph (5), for “(5)(a), (b)”, substitute “(5)(a)”;
  - (b) in paragraph (6), for “paragraphs (7) and (8)”, substitute “paragraph (7)”;
  - (c) omit paragraphs (7)(b) and (8).
- (10) In regulation 11 (recovery of amounts from practitioners following appeal)—
  - (a) omit paragraphs (2), (3), (4) and (8); and
  - (b) in paragraph (7), omit “, (b)”.
- (11) Omit regulation 12 (prior approval in dental cases).
- (12) In regulation 20 (power of Local Representative Committees to consider complaints), omit paragraph (2).
- (13) In Schedule 2 (constitution of discipline committees)—
  - (a) in paragraph 2—
    - (i) omit sub-paragraph (1)(b)(iii) and (4)(b), and
    - (ii) in sub-paragraph (2), for “(iii) to (v)” substitute “(iv) or (v)”;
  - (b) in paragraph 8, omit sub-paragraph (c)(ii).
- (14) In Schedule 4 (procedure for investigation by discipline committees)—
  - (a) omit paragraph 2(1)(b) (disciplinary matters in relation to deputies); and
  - (b) in paragraph 9, omit sub-paragraph (b)(ii).
- (15) In Schedule 5 (advisory committees), omit paragraph 2 and Part 3.

### **The Medicines for Human Use (Marketing Authorisations etc) Regulations 1994**

4. In the Medicines for Human Use (Marketing Authorisations etc) Regulations 1994(a), in Schedule 1 (exemptions and exceptions from the provisions of regulation 3), in paragraph 3(1)(a) for the words “general dental services” substitute “primary dental services”.

### **The Health Authorities (Membership and Procedure) Regulations 1996**

5.—(1) The Health Authorities (Membership and Procedure) Regulations 1996(b) shall be amended as provided in this paragraph.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in the definition of “discipline committee” for “a dental” substitute “an”;

(b) in the definition of “Part II services” omit “general dental services,”; and

(c) in the definition of “service committee” for “a dental” substitute “an”.

(3) In regulation 10 (disqualification for appointment), in paragraph (5)(b), after “primary medical services” insert “or primary dental services”.

(4) In regulation 14 (appointment of committees and sub-committees), in paragraph (3), after “primary medical services” insert “or primary dental services”.

(5) In regulation 16 (disability of chairman and members in proceedings on account of pecuniary interest), in paragraph (6)(b), after “primary medical services” insert “or primary dental services”.

### **The Prescription Only Medicines (Human Use) Order 1997**

6.—(1) The Prescription Only Medicines (Human Use) Order 1997(c) shall be amended as provided in this paragraph.

(2) In Article 12B (exemption for health professionals who supply or administer prescription only medicines under a Patient Group Direction in order to assist doctors or dentists in providing national health services)(d)—

(a) for paragraph (2)(d)(ii) substitute—

“(ii) on behalf of the Primary Care Trust, Local Health Board, Health Board or Health and Social Services Board that is responsible for the arrangements under which the services are provided”; and

(b) for paragraph (3)(a)(i) substitute—

“(i) in relation to England and Wales, the provision of primary dental services under Part 1 of the National Health Service Act 1977;”.

### **The Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999**

7.—(1) The Primary Care Trusts (Consultation on Establishment, Dissolution and Transfer of Staff) Regulations 1999(e) shall be amended as provided in this paragraph.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—

(a) omit the definition of “the 1997 Act”; and

(b) in the definition of “Part II services” omit “general dental services”.

---

(a) S.I. 1994/3144; relevant amending instruments are S.I. 2004/865 and 1016.

(b) S.I. 1996/707. These Regulations (but not the title) were amended, for England, to relate to Strategic Health Authorities by S.I. 2002/2469. Other relevant amending instruments are S.I. 1997/2991, 1998/646 and 2621, 1999/1901, 2000/696 and 2002/556 and 2004/865.

(c) S.I. 1997/1830.

(d) Article 12B was inserted by S.I. 2000/1917 and amended by S.I. 2002/2469, 2004/865, 1016, 2261, 3038 and S.S.I. 2004/212.

(e) S.I. 1999/2337; relevant amending instruments are S.I. 2002/2469 and 2004/865.

(3) In regulation 2 (consultation requirements for PCT orders), in sub-paragraph (d) of paragraph (2)—

- (a) in paragraph (i), after “primary medical services” insert “, primary dental services,”; and
- (b) after paragraph (i), omit the word “or” and paragraph (ii).

(4) In regulation 3 (consultation on amendment of a PCT order or dissolution), in sub-paragraph (d) of paragraph (4)—

- (a) in paragraph (i), after “primary medical services” insert “primary dental services,”; and
- (b) after paragraph (i), omit the word “or” and paragraph (ii).

### **The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000**

**8.**—(1) The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(a) shall be amended as provided in this paragraph.

(2) In regulation 1 (citation, commencement and interpretation), in paragraph (2)—

- (a) omit the definition of “the 1997 Act”;
- (b) in the definition of “health service body”, omit “or pilot scheme health service body”;
- (c) in the definition of “nurse”—
  - (i) for paragraphs (a) and (b) substitute—
    - “(a) is a party to a general dental services contract under section 28K of the Act or to a PDS agreement;
    - (b) is employed by a provider of primary dental services under Part 1 of the Act to assist in the provision of those services;”, and
  - (ii) omit paragraph (d);
- (d) in the definition of “Part II services”, omit “general dental services,”;
- (e) before the definition of “PMS Agreement”, insert ““PDS Agreement” means an agreement made under section 28C of the Act for the provision of primary dental services;”;
- (f) in the definition of “PMS Agreement”, after “means an agreement” insert “for the provision of primary medical services”; and
- (g) omit the definition of “pilot scheme health service body”.

(3) In regulation 5 (disqualification for appointment: chairman and non-officer members), in paragraph (1)—

- (a) in sub-paragraph (g)—
  - (i) in paragraph (i), after “primary medical services,” insert “primary dental services,”, and
  - (ii) omit paragraph (ii); and
- (b) in sub-paragraph (i), omit “or a pilot scheme health service body”.

### **The National Health Service (Charges for Drugs and Appliances) Regulations 2000**

**9.** In the National Health Service (Charges for Drugs and Appliances) Regulations 2000(b), in regulation 2(1) (interpretation), in the definition of “terms of service” omit “general dental services”.

---

(a) S.I. 2000/89; relevant amending instruments are S.I. 2002/2469 and 2861, 2003/1616 and 2004/696, 865 and 1771.

(b) S.I. 2000/620; the relevant amending instrument is S.I. 2004/865.

### **The Family Health Services Appeal Authority (Procedure) Rules 2001**

**10.** In rule 2 (interpretation) of the Family Health Services Appeal Authority (Procedure) Rules 2001(a), in the definition of “FHS Regulations”—

- (a) after paragraph (a), insert—
  - “(ba) sections 28M and 126(4) of the 1977 Act (persons eligible to enter into GDS contracts),”;
- (b) omit paragraphs (b), (h) and (i); and
- (c) in paragraph (g), omit “general medical services, general dental services”.

### **The Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002**

**11.** In the Abolition of the NHS Tribunal (Consequential Provisions) Regulations 2002(b), omit regulation 10.

### **The National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002**

**12.** In the National Health Service (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements) (England) Regulations 2002(c)—

- (a) omit regulation 4 (functions relating to pilot schemes);
- (b) in regulation 6 (limitations and restrictions on the exercise of functions relevant to both Strategic Health Authorities and Primary Care Trusts)—
  - (i) in paragraph (1), for “regulations 3 and 4”, substitute “regulation 3”, and
  - (ii) in paragraph (2)(b), omit the words from “and” to “or”;
- (c) in Part 1 of Schedule 1 (Secretary of State Functions Exercisable by Strategic Health Authorities and by Primary Care Trusts), for the entry in column 2 relating to section 26(2) of the 1977 Act, substitute “Supplying prescribed goods, materials or other facilities to persons providing general ophthalmic services or pharmaceutical services or providing services under a general medical services contract or a general dental services contract or in accordance with section 28C arrangements or providing local pharmaceutical services”; and
- (d) in the Table in Schedule 3 omit the entry for the 1997 Act in column 1 and the corresponding entry in column 2.

### **The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002**

**13.** In the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002(d)—

- (a) in Schedule 1 (amendments consequential on Part 1 of the National Health Service Reform and Health Care Professions Act 2002), omit paragraphs 56, 81 and 93;
- (b) in the table in Schedule 5 (enactments where after “Health Authority”, “Health Authorities” or “Health Authority’s there is inserted “or Primary Care Trust”, “or Primary Care Trusts” or “or Primary Care Trust’s)(e), omit the entry relating to—
  - (i) the National Health Service (General Dental Services) Regulations 1992, and
  - (ii) the Dental Practice Boards (Personal Dental Services) Regulations 1998;

---

(a) S.I. 2001/3750.

(b) S.I. 2002/1920.

(c) S.I. 2002/2375.

(d) S.I. 2002/2469.

(e) Relevant amending instruments are S.I. 2004/641, 865 and 1016.

- (c) in the table in Schedule 6 (enactments where after “Health Authority” there is inserted “, Primary Care Trust”), omit the entry relating to the National Health Service (Pilot Schemes for Personal Dental Services: Miscellaneous Provisions and Consequential Amendments) Regulations 1998; and
- (d) in the table in Schedule 7 (enactments where for “Health Authority”, “District Health Authority”, “Health Authorities” or “Health Authority’s” there is substituted “Primary Care Trust”, “Primary Care Trusts” or “Primary Care Trust’s”), omit the entry relating to the—
  - (i) National Health Service (General Dental Services) Regulations 1992, and
  - (ii) National Health Service (Functions of Health Authorities) (General Dental Services Incentive Schemes) Regulations 2001.

**The Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002**

14. In regulation 4 of the Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002(a) (consultation of committees), omit paragraph (2)(b).

**The Patients’ Forums (Functions) Regulations 2003**

15. In regulation 3(3) of the Patients’ Forums (Functions) Regulations 2003(b) (entry and inspection of premises)—

- (a) insert after sub-paragraph (da)—
  - “(db) persons providing primary dental services under Part 1 of the Act;”;
- (b) in sub-paragraph (e), omit “or under a personal dental services pilot scheme established under Part 1 of the National Health Service (Primary Care) Act 1997”.

**The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003**

16.—(1) The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(c) is amended in accordance with this paragraph.

(2) In regulation 2 (interpretation), in the appropriate alphabetical place insert the terms “course of treatment”, “urgent course of treatment” and “relevant primary dental services” and insert after each of those terms “has the meaning given to it in regulation 2(1) of the National Health Service (Dental Charges) Regulations 2005(d)”.

(3) In regulation 3(1)(a) (NHS travel expenses)(e)—

- (a) after “primary medical services”, insert “or primary dental services”; and
- (b) omit the words “or personal dental services provided under section 28C of the Act”.

(4) In regulation 4(1) (remissible NHS charges), for sub-paragraphs (b) and (c) substitute—

“(b) in accordance with regulations made under section 79 of the Act in respect of charges for relevant dental services)”.

(5) In regulation 5(3) (entitlement to full remission payment), for sub-paragraph (c) substitute—

“(c) in the case of a charge for relevant dental services—

- (i) the arrangements for the treatment or urgent course of treatment under the Act are made,

---

(a) S.I. 2002/3048; the relevant amending instrument is S.I. 2004/696.

(b) S.I. 2003/2124; relevant amending instruments are S.I. 2004/540, 696 and 865.

(c) S.I. 2003/2382.

(d) S.I. 2005/3477.

(e) Regulation 3 has been previously amended by S.I. 2004/865 and 696.

- (ii) the arrangements for the supply of dentures or other dental appliances under the Act otherwise than as part of relevant primary dental services are made, or
- (iii) the charge is made.”

(6) In regulation 6 (entitlement to partial remission and payment), for paragraph (4) substitute—

“(4) In the case of a NHS Charge for relevant dental services, the charge which is partially remissible under this regulation and which must be used for the purposes of the calculation required under paragraph (3)(a) is the charge made—

- (a) for one course of treatment or urgent course of treatment, including any charge made for a denture or other dental appliance supplied in that course of treatment; or
- (b) for the supply of dentures or other dental appliances under the Act otherwise than as part of relevant primary dental services.”

### **The Delayed Discharges (England) Regulations 2003**

17. In regulation 2 of the Delayed Discharges (England) Regulations 2003(a) (interpretation), in the definition of “health service body”, for paragraph (d) substitute—

“(d) a contractor who is regarded as a health service body pursuant to regulation 9 of the National Health Service (Personal Medical Services Agreements) Regulations 2004(b) or regulation 9 of the National Health Service (Personal Dental Services Agreements) Regulations 2005(c);”

### **The National Health Service (General Medical Services etc) (Patients’ Forums) Amendment Regulations 2003**

18. In the National Health Service (General Medical Services etc) (Patients’ Forums) Amendment Regulations 2003(d), omit regulation 3 (amendment of the General Dental Services Regulations).

### **The Health and Social Care (Community Health and Standards) Act 2003 (Supplementary and Consequential Provision) (NHS Foundation Trusts) Order 2004**

19. In the table in Schedule 2 to the Health and Social Care (Community Health and Standards) Act 2003 (Supplementary and Consequential Provision) (NHS Foundation Trusts) Order 2004(e) (enactments where after “National Health Service Trust” or “NHS Trust” there is inserted “NHS Foundation Trust”, omit the entry relating to the National Health Service (General Dental Services) Regulations 1992.

### **The General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004**

20. In Schedule 1 to the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004(f), omit paragraph 9 (the National Health Service (General Dental Services) Regulations 1992).

---

(a) S.I. 2003/2277.  
(b) S.I. 2004/627.  
(c) S.I. 2005/3373.  
(d) S.I. 2003/2863.  
(e) S.I. 2004/696.  
(f) S.I. 2004/865.



### **The National Health Service (Complaints) Regulations 2004**

**21.** In regulation 2 of the National Health Service (Complaints) Regulations 2004**(a)** (interpretation)—

- (a) in paragraph (1), insert the following definition in the appropriate alphabetical place—
  - ““general dental services contractor” means a person who has entered into a general dental services contract with a Primary Care Trust in accordance with section 28K of the 1977 Act;”;
- (b) in paragraph (2), for sub-paragraphs (d) and (e) substitute—
  - “(d) a general dental services contractor;
  - (e) a person who provides primary dental services in accordance with arrangements made under section 28C of the 1977 Act;”.

### **The Special Health Authorities Abolition Order 2005**

**22.** In Schedule 2 to the Special Health Authorities Abolition Order 2005**(b)** (amendments consequential on the abolition of the Special Health Authorities), omit paragraph 5 (the National Health Service (General Dental Services Supplementary List) and (General Dental Services) Amendment Regulations 2003).

### **The National Health Service (Pharmaceutical Services) Regulations 2005**

**23.** In the National Health Service (Pharmaceutical Services) Regulations 2005**(c)** (interpretation)—

- (a) in regulation 2(1), for the definition of “Local Dental Committee” substitute—
  - ““Local Dental Committee” means a committee recognised under section 45B of the Act (Local Dental Committees);”;
- (b) in Schedule 5 (minor and consequential amendments), omit paragraph 15 (the National Health Service (Pilot Schemes for Personal Dental Services: Miscellaneous Provisions and Consequential Amendments) Regulations 1998) and 18 (the National Health Service (General Dental Services) Regulations 1992).

---

(a) S.I. 2004/1768.  
(b) S.I. 2005/502.  
(c) S.I. 2005/641.

**MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO  
THE ABOLITION OF THE BOARD**

**The National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002**

24. In the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002(a), in Schedule 1 omit paragraph 55.

**The Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003**

25. In the Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003(b)—

- (a) for the heading to article 2, there shall be substituted “Special Health Authorities”; and
- (b) in Schedule 1, the words “Dental Practice Board” shall be omitted.

**The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003**

26. In regulation 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(c) (repayments), omit paragraph (4).

**The Community Health Councils Regulations 2004**

27. In regulation 9 of the Community Health Councils Regulations 2004(d) (disqualification for membership), omit paragraph (2)(h).

**The Medicines for Human Use (Clinical Trials) Regulations 2004**

28. In regulation 2(1) of the Medicines for Human Use (Clinical Trials) Regulations 2004(e) (interpretation), in the definition of “health service body”, omit paragraph (e).

---

(a) S.I. 2002/2469.

(b) S.I. 2003/1324.

(c) S.I. 2003/2382. Regulation 12 was previously amended by S.I. 2004/696 and 2005/578.

(d) S.I. 2004/905.

(e) S.I. 2004/1031.

## SCHEDULE 3

Article 49

### REVOCATIONS

|     | <i>Regulations revoked</i>  | <i>References</i> | <i>Extent of revocation</i> |
|-----|---|-------------------|-----------------------------|
| 1.  | The National Health Service (General Dental Services) (Miscellaneous Amendments) Regulations 1990                   | S.I. 1990/1638    | The whole Regulations       |
| 2.  | The National Health Service (Dentists' Remuneration – Special Arrangement) Order 1991                               | S.I. 1991/580     | The whole Regulations       |
| 3.  | The Dental Practice Board Regulations 1992  | S.I. 1992/655     | The whole Regulations       |
| 4.  | The National Health Service (General Dental Services) Regulations 1992  | S.I. 1992/661     | The whole Regulations       |
| 5.  | The National Health Service (General Dental Services) Amendment Regulations 1992                                    | S.I. 1992/1509    | The whole Regulations       |
| 6.  | The National Health Service (General Dental Services) Amendment Regulations 1993                                    | S.I. 1993/2209    | The whole Regulations       |
| 7.  | The National Health Service (General Dental Services) Amendment (No.2) Regulations 1993                             | S.I. 1993/3172    | The whole Regulations       |
| 8.  | The National Health Service (General Dental Services) Amendment Regulations 1995                                    | S.I. 1995/3092    | The whole Regulations       |
| 9.  | The National Health Service (General Dental Services) Amendment Regulations 1996                                    | S.I. 1996/704     | The whole Regulations       |
| 10. | The Health Authorities Act 1995 (Transitional Provisions) Order 1996  | S.I. 1996/709     | Article 18                  |
| 11. | The National Health Service (General Dental Services) Amendment (No.2) Regulations 1996                             | S.I. 1996/2051    | The whole Regulations       |
| 12. | The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997           | S.I. 1997/2289    | The whole Regulations       |
| 13. | The National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997                                | S.I. 1997/2929    | The whole Regulations       |
| 14. | The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Amendment Regulations 1998 | S.I. 1998/3       | The whole Regulations       |
| 15. | The National Health Service (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations 1998 | S.I. 1998/646     | The whole Regulations       |
| 16. | The National Health Service (Pilot Schemes: Financial Assistance for Preparatory Work) Regulations 1998             | S.I. 1998/1330    | The whole Regulations       |
| 17. | The National Health Service (General Dental Services) Amendment Regulations 1998                                    | S.I. 1998/1648    | The whole Regulations       |
| 18. | The National Health Service (Choice of Dental Practitioner) Regulations 1998  | S.I. 1998/2222    | The whole Regulations       |
| 19. | The Dental Practice Boards (Personal Dental Services) Regulations 1998  | S.I. 1998/2223    | The whole Regulations       |

|     |  |                |                       |
|-----|--|----------------|-----------------------|
| 20. | The National Health Service (Pilot Schemes for Personal Dental Services: Miscellaneous Provisions and Consequential Amendments) Regulations 1998 | S.I. 1998/2224 | The whole Regulations |
| 21. | The National Health Service (General Dental Services) Amendment Regulations 2000   | S.I. 2000/2459 | The whole Regulations |
| 22. | The National Health Service (General Dental Services) Amendment Regulations 2001   | S.I. 2001/289  | The whole Regulations |
| 23. | The National Health Service (General Dental Services) Amendment (No.2) Regulations 2001  | S.I. 2001/705  | The whole Regulations |
| 24. | The National Health Service (General Dental Services) Amendment (No.3) Regulations 2001  | S.I. 2001/1677 | The whole Regulations |
| 25. | The National Health Service (Functions of Health Authorities) (General Dental Services Incentive Schemes) Regulations 2001                       | S.I. 2001/1678 | The whole Regulations |
| 26. | The National Health Service (General Dental Services) Amendment (No.4) Regulations 2001  | S.I. 2001/1746 | The whole Regulations |
| 27. | The National Health Service (General Dental Services) Amendment (No.5) Regulations 2001  | S.I. 2001/2421 | The whole Regulations |
| 28. | The National Health Service (General Dental Services) Amendment (No.6) Regulations 2001  | S.I. 2001/3741 | The whole Regulations |
| 29. | The National Health Service (General Dental Services) Amendment (No.7) Regulations 2001  | S.I. 2001/3963 | The whole Regulations |
| 30. | The National Health Service (General Dental Services) Amendment Regulations 2002   | S.I. 2002/558  | The whole Regulations |
| 31. | The National Health Service (General Dental Services Supplementary List and (General Dental Services) Amendment Regulations 2003                 | S.I. 2003/250  | The whole Regulations |
| 32. | The National Health Service (General Dental Services) and (General Dental Services Supplementary List) Amendment Regulations 2003                | S.I. 2003/1702 | The whole Regulations |

## EXPLANATORY NOTE

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

This Order makes further transitional and consequential provision relating to—

- (a) the new arrangements from 1st April 2006 for the provision of general dental services under section 28L of the National Health Service Act 1977 (“the 1977 Act”) in respect of general dental services contracts entered into under section 28K of that Act (as inserted by section 172(1) of the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”));
- (b) the abolition on 1st April 2006 of pilot schemes for personal dental services by section 178 of the 2003 Act and their replacement from 1st April 2006 with permanent arrangements for personal dental services under section 28C of the 1977 Act (personal medical or dental services); and
- (c) the abolition on 1st April 2006 of the Dental Practice Board (“the Board”) by section 181 of the 2003 Act and the transfer of its functions to the NHS Business Services Authority.

Part 2 of the Order makes transitional provision in respect of general dental services provided before 1st April 2006. Article 4 makes provision in respect of applications made before 1st April 2006 for general dental services to be treated as applications for services under a General Dental Services Contract (“GDS contract”) or Personal Dental Services Agreement (“PDS agreement”). Articles 5 and 6 make provision in respect of complaints pending on or made after 1st April 2006. Articles 7 and 10 to 15 make transitional provision in respect of patient information leaflets, emergency dental service, repair and replacement of restorations, service of documents, violent patients, referrals and inability to complete treatment. Articles 8 and 9 make provision in respect of payments and recovery of payments relating to periods before 1st April 2006.

Part 3 of the Order makes transitional provision in respect of personal dental services provided before 1st April 2006. Article 20 makes provision in respect of applications made before 1st April 2006 for personal dental services to be treated as applications for services under a PDS agreement or a GDS contract. Articles 21 and 22 make provision in respect of complaints pending on or made after 1st April 2006. Articles 23 and 26 to 30 make transitional provision in respect of patient information leaflets, violent patients, repair and restorations, provision of information, records and disputes. Articles 24 and 25 make provision in respect of recovery of payments and the remuneration of pilot scheme providers.

Part 4 makes transitional arrangements in relation to the National Health Service (Service Committees and Tribunals) Regulations 1992 which are also amended in Schedule 1.

Part 5 makes transitional provisions in relation to the abolition of the Board and the transfer of its functions to the NHS Business Services Authority.

Part 6 and the Schedules make miscellaneous, minor and consequential amendments and revocations.

A Regulatory Impact Assessment has been prepared in respect of the National Health Service (Personal Dental Services Agreements) Regulations 2005 (S.I. 2005/3373) and the National Health (General Dental Service Contracts) Regulations 2005 (S.I. 2005/3361) and copies have been placed in the library of each House of Parliament. A copy of the Regulatory Impact Assessment can be obtained from [www.dh.uk/ria](http://www.dh.uk/ria).

S.I. 2006 No. 562

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