



2008 CHAPTER 2

Dental services

Provision of dental services

2.—(1) After Article 60 of the Order of 1972 (prohibition of sale of, etc. medical practices), omit the cross-heading “General Dental Services, General Ophthalmic Services and Pharmaceutical Services” and insert—

“Primary dental services

Primary dental services

60A.—(1) Each Health and Social Services Board shall, to the extent that it considers necessary to meet all reasonable requirements, exercise its powers so as to provide primary dental services within its area, or secure their provision within its area.

(2) A Health and Social Services Board may (in addition to any other power conferred on it)—

- (a) provide primary dental services itself (whether within or outside its area);
- (b) make such arrangements for their provision (whether within or outside its area) as it thinks fit, and may in particular make contractual arrangements with any person.

(3) Each Health and Social Services Board shall publish information about such matters as may be prescribed in relation to the primary dental services provided under this Part.

(4) A body on which functions are conferred under this Article shall cooperate with any other such body in the discharge of their respective functions relating to the provision of primary dental services under this Part.

(5) Regulations may provide that services of a prescribed description are, or are not, to be regarded as primary dental services for the purposes of this Part.

(6) Regulations under this Article may in particular describe services by reference to the manner or circumstances in which they are provided.”.

(2) For Article 61 of the Order of 1972 (arrangements for general dental services) substitute—

“General dental services contracts

General dental services contracts: introductory

61.—(1) A Health and Social Services Board may enter into a contract under which primary dental services are provided in accordance with the following provisions of this Part.

(2) A contract under this Article is called in this Order a “general dental services contract”.

(3) Subject to any provision made by or under this Part, a general dental services contract may make such provision as may be agreed between the Health and Social Services Board and the contractor or contractors in relation to—

- (a) the services to be provided under the contract,
- (b) remuneration under the contract, and
- (c) any other matters.

(4) The services to be provided under a general dental services contract may include—

- (a) services which are not primary dental services;
- (b) services to be provided outside the area of the Health and Social Services Board.

(5) In this Part, “contractor”, in relation to a general dental services contract, means any person entering into the contract with the Health and Social Services Board.

Requirement to provide certain primary dental

61A.—(1) A general dental services contract shall require the contractor or contractors to provide, for his or their patients, primary dental services of such descriptions as may be prescribed.

(2) Regulations under paragraph (1) may in particular prescribe services by reference to the manner or circumstances in which they are provided.

Persons eligible to enter into general dental services contracts

61B.—(1) A Health and Social Services Board may, subject to such conditions as may be prescribed, enter into a general dental services contract with—

- (a) a dental practitioner;
- (b) a dental corporation;
- (c) two or more individuals practising in partnership where the conditions in paragraph (2) are satisfied.

(2) The conditions referred to in paragraph (1)(c) in relation to a partnership are that—

- (a) at least one partner is a dental practitioner; and
- (b) any partner who is not a dental practitioner is either—
 - (i) an HSS employee;
 - (ii) an Article 15B employee, a section 28C employee or a section 17C employee;
 - (iii) a health care professional who is engaged in the provision of services under this Order; or
 - (iv) an individual falling within Article 15C(1)(c)(iii).

(3) Regulations may make provision as to the effect, in relation to a general dental services contract entered into by individuals practising in partnership, of a change in the membership of the partnership.

(4) In this Article—

“dental corporation” means a body corporate which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry;

“health care professional” has the same meaning as in Article 15C;

“HSS employee”, “Article 15B employee”, “section 28C employee” and “section 17C employee” have the same meaning as in Article 15C.

General dental services contracts: payments

61C.—(1) The Department may give directions as to payments to be made under general dental services contracts.

(2) A general dental services contract must require payments to be made under the contract in accordance with directions for the time being in force under this Article.

- (3) Without prejudice to the generality of the power under paragraph (1) directions under that paragraph may—
- (a) provide for payments to be made by reference to compliance with standards or the achievement of levels of performance;
 - (b) provide for payments to be made by reference to—
 - (i) any scheme or scale specified in the direction; or
 - (ii) a determination made by any person in accordance with factors specified in the direction;
 - (c) provide for the making of payments in respect of individual practitioners;
 - (d) provide that the whole or any part of a payment is subject to conditions (and may provide that payments are payable by a Health and Social Services Board only if it is satisfied as to certain conditions);
 - (e) make provision having effect from a date before the date of the direction, provided that, having regard to the direction as a whole, the provision is not detrimental to the persons to whose remuneration it relates.
- (4) Before giving a direction under paragraph (1), the Department—
- (a) shall consult any body appearing to it to be representative of persons to whose remuneration the direction would relate, and
 - (b) may consult such other persons as it thinks appropriate.
- (5) References in this Article to payments include fees, allowances, reimbursements, loans and repayments.

General dental services contracts: other required terms

61D.—(1) A general dental services contract shall contain such provision as may be prescribed (in addition to the provision required by the preceding provisions of this Part).

- (2) Regulations under paragraph (1) may in particular make provision as to—
- (a) the manner in which, and standards to which, services are to be provided;
 - (b) the persons who perform services;
 - (c) the persons to whom services are to be provided;
 - (d) the variation of contract terms (other than terms required by or under this Part);

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- (e) rights of entry and inspection (including inspection of clinical records and other documents);
- (f) the circumstances in which, and the manner in which, the contract may be terminated;
- (g) enforcement;
- (h) the adjudication of disputes.

(3) Regulations under paragraph (2)(d) may make provision as to the circumstances in which a Health and Social Services Board may impose a variation of contract terms.

(4) Regulations under paragraph (1) shall make provision as to the right of patients to choose the persons from whom they are to receive services.

General dental services contracts: disputes and enforcement

61E.—(1) Regulations may make provision for the resolution of disputes as to the terms of a proposed general dental services contract.

(2) Regulations under paragraph (1) may make provision—

- (a) for the referral of the terms of the proposed contract to the Department; and
- (b) for the Department, or a person appointed by it, to determine the terms on which the contract may be entered into.

(3) Regulations may make provision for a person or persons entering into a general dental services contract to be regarded as a health and social services body for any purposes of Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1991, in circumstances where he or they so elect.

(4) Regulations under paragraph (3) may include provision as to the application of Article 8 of that Order in cases where—

- (a) persons practising in partnership elect to become a health and social services body; and
- (b) there is a change in the membership of the partnership.

(5) Where—

- (a) by virtue of regulations under paragraph (3), paragraph (8) of Article 8 of that Order applies in relation to a general dental services contract, and
- (b) a direction as to payments is made under that paragraph in relation to the contract,

the direction is to be enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.

Persons providing general dental

61F.—(1) Regulations may provide that a health care professional of a prescribed description may not provide any general dental services for which a Health and Social Services Board is responsible unless that professional is included in a list maintained under the regulations by a Health and Social Services Board.

(2) For the purposes of this Article—

- (a) “health care professional” has the same meaning as in Article 15C;
- (b) a Health and Social Services Board is responsible for general dental services if it provides the services, or secures provision of the services, under or by virtue of Article 61.

(3) Paragraphs (3), (3A), (3B) and (4) of Article 57G shall apply for the purposes of regulations made under paragraph (1) above in the same manner as those paragraphs apply for the purposes of regulations made under paragraph (1) of that Article.”.

General dental services: transitional

3.—(1) The Department shall by order make transitional provision in respect of persons who, immediately before the coming into operation of section 2, are providing services under Article 61 of the Order of 1972 (general dental services).

(2) An order under this section may provide that, in such circumstances as the order may prescribe, a Health and Social Services Board shall, if any such person so wishes, enter into a general dental services contract with that person; and the order may make provision as to the terms of any such contract.

(3) An order under this section may provide that, in such circumstances as the order may prescribe, a Health and Social Services Board shall, if any such person so wishes, enter into a contract with that person, containing such terms as the order may specify, for the provision of dental services.

(4) An order under this section may make provision for the resolution of disputes in relation to any contract entered into, or proposed to be entered into, under subsection (2) or (3), including provision for the determination of disputes by the Department or a person appointed by it.

(5) An order under this section may make provision in respect of a period beginning before the coming into operation of the provision (or of section 2), provided that the provision is not as a whole detrimental to the remuneration of the persons to whom it relates.

(6) In this section “general dental services contract” means a contract under Article 61 of the Order of 1972 (as inserted by section 2).

(7) An order made under this section shall be subject to negative resolution.

Charges for dental services

4.—(1) In Article 98 of the Order of 1972 (services free of charge), after paragraph (2) add—

“(3) Schedule 15A, which makes provisions with respect to exemptions from dental charges under paragraph 1A of Schedule 15, shall have effect.”.

(2) In Schedule 15 to the Order of 1972 (charges in respect of certain services), for paragraph (1A) substitute—

“1A.—(1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for relevant dental services.

(2) Regulations under sub-paragraph (1) may in particular include provision—

- (a) specifying the amount, or maximum amount, of any charge (or aggregate charge in respect of the provision for two or more relevant dental services);
- (b) for calculating the amount of any charge;
- (c) for the variation of the amount, or maximum amount, of any charge in cases of a prescribed description;
- (d) for any charge not to be payable in cases of a prescribed description;
- (e) for power to direct that a charge is not payable in any particular case;
- (f) for the repayment of any charge (including provision as to the persons by whom, and manner in which, repayments are to be made).

(3) Regulations under sub-paragraph (1) may provide for sums which would otherwise be payable by a Health and Social Services Board to persons providing relevant dental services to be reduced by the amount of the charges authorised by the regulations.

(4) This paragraph is subject to Schedule 15A.

(5) In this Schedule and Schedule 15A “relevant dental services” means—

- (a) dental treatment provided—
 - (i) under Article 60A(2) (dental services provided by a Health and Social Services Board);
 - (ii) under a general dental services contract;
 - (iii) in accordance with Article 15B arrangements; and
- (b) the supply of dentures and other dental appliances under this Order.

(6) Any reference in this paragraph or Schedule 15A to the supply of an appliance includes a reference to its repair, adjustment, refitting or replacement and, in the case of dentures, to their being relined or having additions made to them.”

(3) After Schedule 15 to that Order insert—

“SCHEDULE 15A

DENTAL CHARGING: EXEMPTIONS

General exemptions

1.—(1) No charge is to be made under regulations under paragraph 1A(1) of Schedule 15 in respect of a relevant dental service provided for any person who at the prescribed time—

- (a) was under the age of 18;
- (b) was under the age of 19 and receiving qualifying full-time education;
- (c) was pregnant; or
- (d) had given birth to a child within the previous 12 months.

(2) In sub-paragraph (1)(b), “qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the person or body making the regulations.

(3) For the purposes of sub-paragraph (2)—

- (a) “recognised educational establishment” means an establishment recognised by the Department as being, or as comparable to, a school, college or university; and
- (b) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

(4) In sub-paragraph (1)(d), “child” includes a still-born child (within the meaning of the Births and Deaths Registration (Northern Ireland) Order 1976).

(5) This paragraph is subject to paragraph 3.

Repair and replacement

2.—(1) No charge is to be made under regulations under paragraph 1A(1) of Schedule 15 in respect of the repair or replacement of any appliance.

(2) This paragraph is subject to paragraph 3.

Exceptions to paragraphs 1 and 2

3. Paragraphs 1 and 2 do not apply in relation to—

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- (a) the repair or replacement of any appliance of a prescribed description; or
- (b) the repair or replacement of any appliance where it is determined in the prescribed manner—
 - (i) in any case, that the repair or replacement was necessitated by an act or omission of the person supplied; or
 - (ii) in a case where the person supplied was under the age of 16, that the repair or replacement was necessitated by an act or omission, occurring while that person was under that age, of a person having charge of him.

Hospital patients

4. No charge is to be made under regulations under paragraph 1A(1) of Schedule 15 in respect of any appliance supplied to a patient for the time being resident in a hospital.

5. Paragraph 4 does not apply where an appliance is supplied—

- (a) under Article 60A(2);
- (b) under a general dental services contract; or
- (c) in accordance with Article 15B arrangements.

Arrest of bleeding

6. No charge is to be made under regulations under paragraph 1A(1) of Schedule 15 in respect of the arrest of bleeding.

Declarations and evidence

7. Regulations may provide, with respect to any exemption under this Schedule, that it is to be a condition of the exemption that—

- (a) a declaration of the prescribed kind is made in the prescribed form and manner; or
- (b) a certificate or other evidence of the prescribed kind is supplied in the prescribed form and manner.”.

(4) In Article 107 of the Order of 1972 (orders, regulations and directions)—

- (a) in paragraph (1), after “and” (second time) insert “, except as provided in paragraph (1A),”;
- (b) after paragraph (1) insert—

“(1A) The Department may not make a statutory rule containing the first regulations made under paragraph 1A(1) of Schedule 15 unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.

(5) Article 26 of the [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(NI 7\)](#) is repealed.

(6) In respect of any period after the coming into operation of this section but before the coming into operation of section 6, paragraph 1A(5)(b) of Schedule 15 to the Order of 1972 (as inserted by subsection (2) above) shall have effect as if it included a reference to the supply of dentures and other dental appliances in accordance with a pilot scheme under Part II of the [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(NI 7\)](#).

Provision of dental services: Article 15B arrangements

5.—(1) The Order of 1972 shall be amended as follows.

(2) In Article 15B (provision for primary medical services and personal dental services)—

- (a) in the cross-heading and heading that precede the Article, for “personal dental services” substitute “primary dental services”;
- (b) in paragraphs (1)(b), (2)(a) and (b)(i) and (4), for “personal dental services”, in each place where those words occur, substitute “primary dental services”;
- (c) omit paragraphs (3) and (6).

(3) In Article 15C (persons with whom arrangements under Article 15B may be made), for sub-paragraph (c) of paragraph (1) substitute—

- “(c) in the case of an agreement under which primary dental services are provided—
 - (i) a dental practitioner who satisfies the prescribed conditions;
 - (ii) a health care professional who satisfies the prescribed conditions;
 - (iii) an individual who is providing services—
 - (A) under a general dental services contract; or
 - (B) in accordance with Article 15B arrangements, section 28C arrangements or section 17C arrangements;or has so provided them within such period as may be prescribed;”.

(4) In paragraph (1A) of that Article, for the words from “or” to “sub-paragraph (d),” substitute “(c)(iii) or (d)”.

(5) In paragraph (2) of that Article—

- (a) in the definition of “HSS employee”—
 - (i) in paragraph (bb), after “contract” insert “or a general dental services contract”, and
 - (ii) omit paragraph (c);
- (b) omit the definition of “qualifying dental practitioner”.

- (6) In Article 15D (regulations concerning Article 15B arrangements)—
 - (a) in the heading, for “personal dental services”, substitute “primary dental services”; and
 - (b) in paragraph (2), omit sub-paragraph (b) and the definition of “practitioner”.
- (7) In paragraphs (3)(ca) and (3E) of that Article, after “services” insert “or primary dental services”.
- (8) In paragraph (3C) of that Article, after “contract” insert “or a general dental services contract”.
- (9) In paragraph (6) of that Article—
 - (a) for “personal dental services” substitute “primary dental services”, and
 - (b) omit the words from “(whether” to “otherwise”.
- (10) Article 15F (right to choose dental practitioner) shall cease to have effect.

Revocation of power to make pilot schemes for provision of personal dental services

6. The power of a Health and Social Services Board under Part II of the [Health Services \(Primary Care\) \(Northern Ireland\) Order 1997 \(NI 7\)](#) to make pilot schemes for the provision of personal dental services shall cease to have effect.

Assistance and support for persons providing primary dental services

7. In Article 57H(1) of the Order of 1972 (assistance and support), for sub-paragraph (a) substitute—

- “(a) any person providing, or proposing to provide, primary medical services or primary dental services under a general medical services contract or a general dental services contract;”.