

*This Statutory Instrument has been corrected by S.I. 1998/3052 (S.176) and is being issued free of charge to all known recipients of S.I. 1998/2259 (S.116)*

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STATUTORY INSTRUMENTS

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**1998 No. 2259 (S.116)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998**

<i>Made</i>	- - - -	<i>14th September 1998</i>
<i>Laid before Parliament</i>		<i>17th September 1998</i>
<i>Coming into force</i>	- -	<i>12th October 1998</i>

The Secretary of State, in exercise of powers conferred on him by sections 17G, 25(2)(c), 34, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Choice of Dental Practitioner) (Scotland) Regulations 1998 and shall come into force on 12th October 1998.

(2) In these Regulations, unless the context otherwise requires—

“the 1978 Act” means the National Health Service (Scotland) Act 1978;

“the 1997 Act” means the National Health Service (Primary Care) Act 1997(2);

“dentist” means a registered dental practitioner;

“the GDS Regulations” means the National Health Services (General Dental Services) (Scotland) Regulations 1996(3);

“pilot scheme” has the meaning assigned to it in section 1(1) of the 1997 Act; and

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(1) 1978 c. 29; section 17G was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 24(2), section 25(2) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1998 Act”), Schedule 2, paragraph 11 and by the National Health Service and Community Care Act 1990 (c. 19), section 40(2) and Schedule 9, paragraph 19(6) and was extended by the 1988 Act, section 17; section 105(7), which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, contains provisions relevant to the making of Regulations; section 108(1) confirms definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) 1997 c. 46.

(3) S.I. 1996/177, amended by S.I. 1996/841 and 2060 and 1998/1663.

“practice premises” means any premises, including any mobile surgery, at which primary dental services are provided.

(3) In these Regulations, “capitation arrangement”, “care and treatment” and “continuing care arrangement” have the meanings respectively assigned to them in the GDS Regulations.

### **Procedure for choosing a dentist**

2.—(1) Subject to the provisions of this regulation and regulation 3, any person who wishes to receive primary dental services may choose the dentist from whom he is to receive those services (being a dentist who provides general dental services<sup>(4)</sup> or who performs personal dental services<sup>(5)</sup> under a pilot scheme).

(2) A dentist may decline an application which is made under paragraph (1).

(3) A dentist who provides general dental services may not—

(a) provide care and treatment under a continuing care arrangement for a person under the age of 18, although such a person may apply to a dentist for treatment under such an arrangement with that dentist to commence from the date he attains the age of 18—

(i) at any time during the month before he attains the age of 18 provided that he is not immediately before that date receiving care and treatment under a capitation arrangement with that dentist, or

(ii) where he is receiving care and treatment under a capitation arrangement with a dentist, at any time after he attains the age of 17;

(b) provide care and treatment under a capitation arrangement for a person who has attained the age of 18;

(c) enter into a capitation arrangement with a person during the month before he attains the age of 18.

(4) An application which is made under paragraph (1) shall be made—

(a) in person by the person wishing to receive primary dental services, or on his behalf in any of the circumstances set out in regulation 3; and

(b) at the dentist’s practice premises, unless the person making the application is unable to attend those premises owing to illness or any other reasonable cause.

### **Exercise of choice of dentists in certain cases**

3. An application shall be made (otherwise than by the dentist concerned) under regulation 2(1)—

(a) on behalf of any person under the age of 16, by either parent, or in the absence of both parents, the guardian or other person who has the care of the child;

(b) on behalf of any other person who is incapable of making such an application by a relative or any person who has the care of such person;

(c) on behalf of any person under the age of 18—

(i) who is looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995<sup>(6)</sup>;

(ii) in the care of a voluntary organisation by that organisation or a person duly authorised by them; and

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(4) “General dental services” has the meaning given to it in section 25(1) of the 1978 Act.

(5) “Personal dental services” has the meaning given to it in section 1(8) of the 1997 Act.

(6) 1995 c. 36.

- (d) on behalf of any person detained in a prison, remand centre or young offenders institution by a person authorised by the Secretary of State.

**Revocation**

4. Part III of the GDS Regulations (method of obtaining general dental services) is hereby revoked.

St Andrew's House,  
Edinburgh  
14th September 1998

*Sam Galbraith*  
Minister for Health Scottish Office

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations replace provisions of the National Health Service (General Dental Services) (Scotland) Regulations 1996 (“the GDS Regulations”) relating to the right (which is set out in section 17G of the National Health Service (Scotland) Act 1978 (“the 1978 Act”)) of any person to choose a dentist from whom he is to receive primary dental services. These Regulations make provision both in relation to dentists who provide general dental services under Part II of the 1978 Act and in relation to dentists who perform personal dental services in connection with a pilot scheme under section 1(1) of the National Health Service (Primary Care) Act 1997.

Regulation 2 specifies the procedures for applying for primary dental services subject to the dentist’s consent. Regulation 3 sets out the circumstances in which an application for primary dental services shall be made on behalf of someone else. Regulation 4 revokes the provisions of the GDS Regulations which these Regulations replace.