

## SCHEDULE 1

Regulation 14

### TRANSITIONAL PROVISIONS

#### Interpretation

**1.** In this Schedule—

“the 2001 Rules” means the Family Health Services Appeal Authority (Procedure) Rules 2001(1);

“continuing matter” means any case where the Initial Primary Care Trust had not yet come to a decision on any matter, other than a matter falling within paragraph 8, under the Dental Regulations;

“Initial Primary Care Trust” means a Primary Care Trust in whose dental list the dentist’s name was or had been included prior to the relevant date;

“the relevant date” means 1st April 2006,

and other terms used shall bear the same meaning in this Schedule that they have in Part 3 of the principal Regulations.

#### Allocation of dentists on previous lists

**2.** In the case of a dentist, whose name, immediately before the relevant date, was included in a Primary Care Trust’s—

- (a) dental list, but was not included in the dental list of any other Primary Care Trust; or
- (b) dental supplementary list,

his name shall, on that day, be included in that Primary Care Trust’s dental performers list.

**3.** In the case of a dentist whose name was, immediately before the relevant date, included in the dental list of more than one Primary Care Trust, his name shall, on that date, be included in the dental performers list of one of those Trusts in accordance with paragraphs 4 to 9.

**4.** In which Primary Care Trust’s list that dentist’s name is to be included shall be determined by reference to the payments that the Dental Practice Board made to the dentist under regulation 20 (approval of payments) of the Dental Regulations(2) in the quarter ending 31st December 2005 in relation to the general dental services that the dentist had provided in the area of each such Primary Care Trust, in accordance with paragraph 5.

**5.** The dentist shall be included in the dental performers list of the Trust in respect of whose area the largest total of payments was made, unless the payments in respect of two or more such areas in that quarter were the same, in which case the matter shall be determined by reference to the previous quarter.

**6.** This paragraph applies to a dentist, who—

- (a) falls within paragraph 3; but
- (b) would, by reason of paragraphs 4 and 5, be included in the dental performers list of a Primary Care Trust in whose area he will not be party to a scheme to provide primary dental services on or after the relevant date.

**7.** A dentist to whom paragraph 6 applies—

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(1) S.I. 2001/3750, as amended by S.I. 2002/1921 and 2469.

(2) Regulation 20 was amended by S.I. 1998/224, 2000/2459, 2001/1677 and 2002/2469.

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- (a) if he is party to such a scheme in the area of another Trust in whose dental list his name was included immediately before the relevant date, it shall be included in the dental performers list of that Trust; and
- (b) if he was on that day included in the dental list of more than one such Trust, the question of which dental performers list his name is to be included in shall be determined in accordance with paragraphs 4 and 5.

#### **Applications not decided by the relevant date**

8. Subject to paragraph 9, in any case where there was any application, including an application which the Primary Care Trust has deferred, by a dentist to a Primary Care Trust for his name to be included in its dental list or dental supplementary list and that application has not been decided before the relevant date, it shall be deemed to be an application to have his name included in the dental performers list of that Primary Care Trust.

9. In a case where—

- (a) a dentist has made an application to which paragraph 8 applies;
- (b) his name was already included in a dental list or dental supplementary list of any Primary Care Trust; and
- (c) he had not given notice of an intention to withdraw from that list with that application,

that application shall be void and the Primary Care Trust shall so notify him, informing him of the reason for that.

#### **Matters relating to the dentist**

10. In a case falling within paragraph 2, any matter, question or proceeding relating to any dentist under the Dental Regulations or the Dental Supplementary List Regulations, that had not been finally decided before the relevant date, shall be treated as though it had arisen in relation to the dental performers list in which that dentist has been included or, but for that matter, would have been included and shall continue to be dealt with by the Primary Care Trust.

11. In a case where a dental list or dental supplementary list, on which the dentist's name was included immediately before the relevant date, contained, in relation to him, any condition or contingent removal, or if he was then suspended from that list, that condition, contingent removal or suspension, as the case may be, shall equally apply to the dental performers list in which his name is included on and after the relevant date as it did, in relation to any other list, before that date.

12. In any case where a dentist was included in a dental supplementary list immediately before the relevant date and was then undertaking vocational training, he shall be included in the dental performers list subject to giving the undertakings required by regulation 30(2)(b) of the principal Regulations (application for inclusion in a dental performers list).

13. Subject to paragraph 14, in any case where there is any continuing matter and that matter had not been finally decided before the relevant date, it shall be treated as though it had arisen in relation to the dental performers list in which that dentist has been included or, but for that matter, would have been included.

14. In any case where there is a continuing matter and the dental performers list in which that dentist's name is included is not that of the Initial Primary Care Trust that matter shall proceed as though his name were included in the Initial Primary Care Trust's dental performers list.

### **Dentists performing personal dental services or community dental service**

**15.**—(1) Any dentist, whose name was not included in a dental list or a dental supplementary list immediately before the relevant date and was performing personal dental services or community dental service before the relevant date, may perform primary dental services, notwithstanding regulation 29(1) of the principal Regulations (dental performers list), until—

- (a) 1st July 2006; or
- (b) the date on which the Primary Care Trust notifies him of its decision on his application to be included in its dental performers list,

whichever is the earlier, provided that that dentist applies, in accordance with the principal Regulations, to a Primary Care Trust to be included in its dental performers list not later than 1st May 2006.

(2) A dentist making an application to a Primary Care Trust under sub-paragraph (1), who was employed by a Primary Care Trust to perform personal dental services or community dental service immediately before the relevant date, shall only be required to provide the information required under regulations 4(2), (4) and (5) (application for inclusion in a performers list) and 30(1) (application for inclusion in a dental performers list) of the principal Regulations in so far as—

- (a) he has not already supplied it to that Trust; or
- (b) it has changed since it was provided.

(3) Any dentist to whom sub-paragraph (1) applies shall comply with regulation 9 of the principal Regulations (requirements with which a performer in a performers list must comply), if any of the events specified in that regulation occur, as if he were included in the dental performers list of the Primary Care Trust in whose area he is performing primary dental services.

(4) A dentist may not perform primary dental services by virtue of sub-paragraph (1) during any period in which he is the subject of a suspension notice given by a Primary Care Trust under sub-paragraph (5).

(5) A Primary Care Trust may give a suspension notice to a dentist to whom sub-paragraph (1) applies where it is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest.

(6) A Primary Care Trust may withdraw a suspension notice it has given under sub-paragraph (5) at any time.

(7) During a period of suspension payments may be made to or in respect of the dentist by the Primary Care Trust in accordance with a determination by the Secretary of State.

- (8) Where a Primary Care Trust—
- (a) has received an application from a dentist to whom sub-paragraph (1) applies; and
  - (b) becomes aware in respect of that dentist of any of the matters listed in regulations 10(1) (removal from performers list) or 32(1) (ground for removal from a dental performers list) of the principal Regulations,

it shall immediately decide the dentist's application to be included in its dental performers list.

### **Enhanced criminal record certificates**

**16.**—(1) Where a dentist's name has been included in a dental performers list of a Primary Care Trust pursuant to this Schedule, and—

- (a) it has not received an enhanced criminal record certificate under section 115 of the Police Act 1997(3) relating to him; and

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(3) 1997 c. 50.

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(b) the Secretary of State directs that the Primary Care Trust shall require such a certificate from any dentist whose name is included in its dental performers list, the dentist shall, within 3 months of the Trust notifying him of that requirement, provide that certificate to it.

(2) When sub-paragraph (1)(b) applies, the Primary Care Trust shall write to each such dentist informing him that he is now under a duty to—

- (a) provide it with such a certificate; and
- (b) do so within the period of 3 months beginning with the date of that letter,

and, subject to sub-paragraph (3), if the dentist has not provided it with such a certificate within that time, it shall remove him from its dental performers list.

(3) The Primary Care Trust—

- (a) shall extend the period prescribed in sub-paragraph (1), if the Secretary of State directs that an extension should be required in relation to all such cases or in such categories of case as he may set out in the directions; and
- (b) may, if it thinks it is not reasonably practicable for that dentist to provide it with such a certificate within the period of 3 months, beginning with the date of the letter under sub-paragraph (2), as extended by reason of any direction to which paragraph (a) applies, extend that period for such time as it considers appropriate in the circumstances of the case,

and shall notify that dentist of that extension of time.

### **Appeals to the FHSAA under Part II of the 2001 Rules**

17.—(1) Where—

- (a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules (time period in which an FHS regulations appeal must be heard) on or after the relevant date; and
- (b) that notice of appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before the relevant date,

that Trust shall continue to be the respondent, even if the dentist's name is from the relevant date, included in the dental performer's list of a different Primary Care Trust.

18. Where—

- (a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules (notice of appeal) before the relevant date;
- (b) that appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before the relevant date; and
- (c) it has not been finally determined before the relevant date,

that Trust shall continue to be the respondent, even if the dentist's name is, from the relevant date, included in the dental performer's list of a different Primary Care Trust.

### **Applications to the FHSAA under Part III of the 2001 Rules**

19. Where the FHSAA—

- (a) has received an application pursuant to Part III of the 2001 Rules (applications to the FHSAA) before the relevant date; and
- (b) that application has not been finally determined immediately before the relevant date,

the parties to that application shall, from the relevant date, continue to be the dentist who was a party immediately before the relevant date and the Initial Primary Care Trust.

**General matters relating to cases under Part IV of the 2001 Rules**

**20.** Where a panel has—

- (a) pursuant to rule 32(1) (directions in respect of hearings), 33 (further directions), 44(2) (miscellaneous powers of panel) or 45(2) (irregularities) of the 2001 Rules given any directions; or
- (b) pursuant to rule 37 (varying or setting aside directions) of those Rules, varied any directions,

in relation to any appeal falling within paragraph 17, those directions or varied directions shall continue to apply to the Initial Primary Care Trust, even if the dentist's name is, on and after the relevant date, included in the dental performers list of a different Primary Care Trust.

**21.** Where a panel has, pursuant to rule 42 (decision of panel) or 43 (review of panel's decision) of the 2001 Rules, given a decision—

- (a) that decision shall continue to apply to the Initial Primary Care Trust; and
- (b) that Trust shall be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision.

**22.** Where the FHSAA has taken a decision before the relevant date which, by virtue of rule 46 of the 2001 Rules (publication of certain decisions by the FHSAA), it would, at the time it took that decision have been obliged to publish, that obligation shall continue on or after the relevant date if it has not published the decision immediately.