
WELSH STATUTORY INSTRUMENTS

2006 No. 946

**The General Dental Services and Personal Dental Services
Transitional and Consequential Provisions (Wales) Order 2006**

PART 2

**TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL
DENTAL SERVICES PROVIDED BEFORE 1 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 1 April 2006—

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

that application will 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.

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

(2) [S.I. 1998/2222](#).

Investigation of outstanding complaints

5. –

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

- (a) a complaint had been made under paragraph 31A of Schedule 1 to the 1992 Regulations⁽³⁾ 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 1 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 31 March 2006.

(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 31 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, she or they meet the requirements in paragraph (4);
- (b) in the case where the person or persons specified in paragraph (a) satisfy the Local Health Board 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, her or them, that Local Health Board; or
- (c) in any other case, the Local Health Board 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 Local Health Board 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 Local Health Board 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 Local Health Board 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 Local Health Board 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 will—

(3) Paragraph 31A was inserted into the 1992 Regulations by [S.I. 1996/704](#).

- (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 Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant and that Local Health Board will investigate the complaint itself.

(6) Where, under this article, a complaint falls to be investigated by a Local Health Board the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners⁽⁴⁾.

Complaints relating to general dental services made after 31 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
- (b) personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations,

will 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 31 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 Local Health Board in whose area the general dental services were provided.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

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 on 31 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 1 April 2006 by the succeeding contractor need not, until 1 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) These directions were made in March 2003.

- (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 Local Health Board 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 Local Health Board which is a party to the contract or agreement and from whom details of primary dental services in the area may be obtained.

Recovery of Overpayments

8. –

(1) Where, before 1 April 2006, a dental practitioner had admitted an overpayment drawn to its attention by a Local Health Board 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 1 April 2006, will notwithstanding the revocation of the 1992 Regulations continue to be recoverable by that Local Health Board and will be treated as a debt owed by that dental practitioner to that Local Health Board.

(2) Notwithstanding the revocation of the 1992 Regulations, where a Local Health Board 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 Local Health Board before 1 April 2006, that Local Health Board may draw the overpayment to the attention of the dental practitioner and—

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

(3) Where, before 1 April 2006, a Local Health Board has drawn a possible overpayment under the SDR to the attention of a dental practitioner, and the overpayment has not been admitted by him or her, 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 31 March 2006, as those arrangements had effect on 31 March 2006, will apply; and
- (b) if he or she has not appealed or does not appeal, or is unsuccessful in an appeal, the Local Health Board 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 1 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 will continue to apply and have effect as they were in force on 31 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 1 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 1 April 2006, those arrangements will continue to subsist until terminated by the Local Health Board 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⁽⁵⁾ and has not been given or sent before 1 April 2006, notwithstanding the revocation of the 1992 Regulations, regulation 32 of those Regulations will continue to have effect as in force on 31 March 2006 in respect of such a notice or document.

Repair and replacement of restorations

12. Where, on or before 31 March 2006, a relevant dental practitioner has provided a restoration and that restoration requires repair or replacement which he or she would have been required to repair or replace under paragraph 7 of Schedule 1 to the 1992 Regulations, the succeeding contractor will 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—

(5) Regulation 32 was substituted by regulation 6 of [S.I. 1993/2209](#).

- (a) a person commits an act of violence in the circumstances specified in paragraph 11A(1) (a) of Schedule 1 to the 1992 Regulations⁽⁶⁾; and
- (b) the Local Health Board has not informed the person concerned on or before 31 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 will continue to have effect as in force on 31 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 1 April 2006 will 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 31 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 31 March 2006; or
- (b) the dentist has not indicated in his or her 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 will continue to have effect as in force on 31 March 2006 in respect of the referral of that patient.

(2) Where, on or before 31 March 2006, a relevant dental practitioner has provided a restoration in the course of treatment on referral and that restoration requires repair or replacement which he or she would have been required to repair or replace under paragraph 13 of Schedule 1 to the 1992 Regulations, the succeeding contractor will 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 or her 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 31 March 2006; and
- (b) has not notified the Board on or before 31 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 will, subject to paragraph (2), continue to have effect as in force on 31 March 2006 in respect of that incomplete care and treatment.

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

(6) Paragraph 11A was inserted into Schedule 1 to the 1992 Regulations by [S.I 1998/1648](#).

Care and Treatment summaries

16. Where, on or before 31 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 1 April 2006, notwithstanding the revocation of the 1992 Regulations, paragraph 15 of Schedule 1 to those Regulations will continue to have effect as in force on 31 March 2006 in respect of that request.

Occasional treatment

17. –

(1) Where a dentist—

- (a) due to any cause beyond his or her control, is unable to complete a course of occasional treatment which he or she has commenced on or before 31 March 2006; and
- (b) has not notified the Board on or before 31 March 2006 in accordance with paragraph 17(3) of Schedule 1 to the 1992 Regulations(7),

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

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

(3) Where—

- (a) on or before 31 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 1 April 2006 that filling or root filing requires repair or replacement which he or she would have been required to repair or replace under paragraph 17 of Schedule 1 to the 1992 Regulations,

the succeeding contractor will 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 31 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 will continue to have effect as in force on 31 March 2006 in respect of the referral of that patient.

Records

18. Notwithstanding the revocation of the 1992 Regulations, a dentist will 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—

(7) Paragraph 17 of Schedule 1 to the 1992 Regulations was substituted by [S.I. 2003/138](#).

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