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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 37**

**NATIONAL HEALTH SERVICE**

**The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2004**

*Made* - - - - 2nd February 2004  
*Laid before the Scottish Parliament* - - - - 3rd February 2004  
*Coming into force* - - 4th March 2004

The Scottish Ministers, in exercise of the powers conferred on them by sections 25(1), (2) and (2B), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (General Dental Services) (Scotland) Amendment Regulations 2004 and shall come into force on 4th March 2004.

**Amendment of the National Health Service (General Dental Services) (Scotland) Regulations 1996**

2.—(1) The National Health Service (General Dental Services) (Scotland) Regulations 1996(2) are amended as follows.

(2) In regulation 4(1A) and (1B) (dental list)(3)—

(a) in sub-paragraph (a) for “30(1), 31(b)” substitute “29B(2), 30(2) or (5), 31(1)(b)(4)”;

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- (1) 1978 c. 29. Section 25(2) was extended by the Health and Medicines Act 1988 (c. 49), section 17 and amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 40(2) and Schedule 9, paragraph 19(6), by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 43 and Schedule 3 and by the Health Act (“the 1999 Act”), section 56(3); section 25(2B) was inserted by the 1990 Act, section 40(3); section 105(7), which contains provisions relevant to the making of regulations, 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; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
- (2) S.I.1996/177. Relevant amending instruments are S.I. 1998/1663, 1999/724 and S.S.I. 1999/51 and 2000/188.
- (3) Regulation 4(1A) and (1B) were inserted by S.S.I. 2000/188.
- (4) Section 29B was inserted by the the 1999 Act, section 58(1) and amended by the Community Care and Health (Scotland) Act 2002 (asp 5) (“the 2002 Act”), schedule 2, paragraph 2(b). Section 30 was inserted by the 1999 Act, section 58(2) and amended by the 2002 Act, schedule 2, paragraph 2(7). Section 31(b) was renumbered section 31(1)(b) by the 1999 Act, Schedule 4, paragraph 49.

- (b) in sub-paragraph (b) omit “or”;
- (c) after sub-paragraph (c) insert–
  - “; or
  - (d) regulation 26(1) (practitioners subject to inquiry in a fraud case) of the National Health Service (Tribunal) (Scotland) Regulations 2004<sup>(5)</sup>
- (3) In regulation 13(2) (withdrawal from dental list)<sup>(6)</sup>–
  - (a) for “(disqualification of persons providing services) that the continued inclusion of a dentist in the dental list would be prejudicial to the efficiency of the general dental services” substitute “(the NHS Tribunal), or a request for a review has been made to the Tribunal or a review is to be made by the Tribunal under section 30 of the Act (review etc. of disqualification)”;
  - (b) after “representations” in the second place where it occurs insert “, request for review or review”.
- (4) In Schedule 1 (terms of service for dentists) in paragraph 35(11)(a)<sup>(7)</sup>–
  - (a) for “29(3)(b)” substitute “29B(2)(b) or 30(2) or (5)”;
  - (b) for “29(3)(c)” substitute “29B(3) or 30(6)”.

St Andrew’s House, Edinburgh  
2nd February 2004

*MALCOLM CHISHOLM*  
Authorised to sign by the Scottish Ministers

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<sup>(5)</sup> S.S.I. 2004/38.

<sup>(6)</sup> Regulation 13 was amended by S.S.I. 1999/51.

<sup>(7)</sup> Paragraph 35 was amended by S.S.I. 1999/51 and 2000/188.

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (General Dental Services) (Scotland) Regulations 1996 (“the 1996 Regulations”), which make arrangements under which dentists provide general dental services under the National Health Service (Scotland) Act 1978 (“the Act”).

These Regulations make amendments to regulations 4 and 13, and paragraph 35 of Schedule 1 to, the 1996 Regulations. These amendments are consequential upon the National Health Service (Tribunal) (Scotland) Regulations 2004 (“the 2004 Regulations”) and amendments made to the Act by the Health Act 1999 (“the 1999 Act”) relating to the NHS Tribunal and the disqualification of practitioners providing services under Part II of the Act.

In particular, these Regulations—

- (a) clarify that a Health Board or primary care NHS trust shall not include in the dental list, persons who may not be added to that list, by virtue of the provisions of regulation 26 of the 2004 Regulations, until proceedings in that case are finally concluded (regulation 2(2)); and
- (b) replace references to provisions of the Act, with references to provisions of the Act as amended by the 1999 Act (regulation 2(3) and (4)).