

1987 No. 736

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**The National Health Service (General Dental Services)
Amendment Regulations 1987**

<i>Made - - - -</i>	<i>22nd April 1987</i>
<i>Laid before Parliament</i>	<i>24th April 1987</i>
<i>Coming into force</i>	<i>15th May 1987</i>

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 35(4) and 126(4) of the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Dental Services) Amendment Regulations 1987 and shall come into force on 15th May 1987.

Amendment of regulations

2.—(1) After Part VI of the National Health Service (General Dental Services) Regulations 1973(b) there is inserted the following Part—

“Part VIA

PAYMENTS IN CONSEQUENCE OF SUSPENSION

Interpretation

26A. In this Part of these regulations, unless the context requires otherwise—

- (a) “claimant” means a person claiming to be entitled to, or receiving, payments;
- “erasure” means the erasure of a person’s name from the register;
- “fees” does not include remuneration by way of salary;
- “immediate suspension” means suspension by virtue of an order under section 30(3) of the Dentists Act 1984(c) except suspension which is terminated by the court under section 30(6) of that Act;
- “interim suspension order” means an order under section 32 of the Dentists Act 1984;

(a) 1977 c.49; section 35(4) was added by section 15(a) of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41). For amendments to section 35(3), see paragraph 8 of Schedule 5 to the Dentists Act 1984 (c. 24). For the definition of “regulations” see section 128(1) of the National Health Service Act 1977.

(b) S.I. 1973/1468; the relevant amending instrument is S.I. 1974/53.

(c) 1984 c.24.

“payment” means a payment under this Part of these regulations;
“register” means the dentists register referred to in section 14(1) of the Dentists Act 1984 and “registration” means registration in that register;
“suspension date” means the date on which suspension of a person’s registration takes effect;

- (b) a reference to a direction or an order of the Health Committee is to a direction or an order of that Committee under the Dentists Act 1984.

Entitlement to payments

26B.—(1) Payments shall be made as provided for by this Part of these regulations to a dentist whose registration is suspended by an interim suspension order or by a direction or an order of the Health Committee.

(2) No payment shall be made to a person—

- (a) whose registration has been suspended by a direction or an order of the Health Committee once he has received payments in respect of twelve months such suspension, whether in respect of the same or a previous period of such suspension and whether or not those twelve months formed a continuous period;
- (b) in respect of any part of a third or subsequent period of suspension by any direction or order of the Health Committee, no account being taken of a period of such suspension completed before 15th May 1987; or
- (c) in respect of any part of a period of suspension where in the period of two years immediately preceding the suspension date he received no fees for the provision of general dental services.

(3) No payment shall be made to a person for a period (whether the whole or part of a period of suspension)—

- (a) earlier than 15th May 1987;
- (b) earlier than eight weeks before the date on which an application for payments is received by the Committee, unless the Committee is satisfied that the lateness of the application is due to illness or some other reasonable cause;
- (c) during which his name is not included in the dental list of a Committee;
- (d) during which he is absent from the United Kingdom;
- (e) for which he is entitled to any benefit under a contract of insurance against the risk of the suspension of his registration or of the circumstances which led to it or for which the Committee is satisfied he could have been so entitled but for his failure to enter into such a contract or to pay any premium due under such a contract;
- (f) during which he is serving a term of imprisonment;
- (g) during which he is remanded in custody in connection with a criminal offence for which he is (then or later) convicted; or
- (h) during which he is in breach of any condition of bail in connection with a criminal offence for which he is (then or later) convicted.

Application for payments

26C.—(1) An application for payments shall be made to the Committee in whose dental list the claimant’s name was included immediately before the suspension date; where his name was then included in the list of more than one Committee, the application shall be made to the Committee by whom the larger or largest amount of remuneration was payable to him in the two years immediately preceding that date.

(2) An application for payments shall—

- (a) be in writing;
- (b) be made by the claimant or, where he is incapable of applying, on his behalf; and
- (c) contain or be supported by such information as the Committee may reasonably require for the purpose of establishing the claimant’s entitlement to payments.

Amount and time of payments

26D.—(1) A Committee to whom an application for payments is made in accordance with regulation 26C shall, having made such enquiries as it considers relevant, if satisfied that the claimant is entitled to payments by virtue of regulation 26B, determine that he shall, in respect of any period for which he is so entitled, receive payments which, subject to paragraphs (2) to (6), shall be of the following amounts—

- (a) where his registration is suspended by a direction or an order of the Health Committee—
 - (i) £1808 per month for each of the first six months for which payments are made to him, whether in respect of that or a previous period of such suspension and whether or not those six months form a continuous period, and
 - (ii) £904 per month thereafter;
- (b) where his registration is suspended by an interim suspension order—
 - (i) where the period of interim suspension ends with an order for erasure or immediate suspension, £904 per month, and
 - (ii) in any other case, £1808 per month.

(2) Where in the period of two years immediately preceding the suspension date the total amount of a claimant's gross fees received for the provision of general dental services was less than £99,415, the amount of payments made to him shall (subject to any further reduction under paragraph (3)) be the same proportion of the amount otherwise payable in accordance with paragraph (1) as that total amount of fees is of £99,415.

(3) Where a claimant's name was included in the dental list of a Committee for a period of less than two years immediately preceding the suspension date the amount of payments made to him shall be the same proportion of the amount otherwise payable in accordance with paragraph (1) or paragraph (2) as the number of complete months in that lesser period is of 24.

(4) Where a claimant's registration has been suspended by an interim suspension order or by a direction or an order of the Health Committee within a period of two years after the expiry of a previous period of any such suspension, the references in paragraphs (2) and (3) to the suspension date shall be taken as references to the suspension date as respects that previous period.

(5) Where the Committee has to make a determination as to payments at a time when it does not know whether or not the period of a person's interim suspension will end with an order for erasure or immediate suspension, or whether or not he will be convicted of a criminal offence, it shall make that determination as though his period of interim suspension did so end or he was convicted of the offence; but it shall review that determination and make an appropriate payment of any arrears if subsequently that period does not so end or he is not convicted of the offence.

(6) Payments shall, so far as it is reasonably practicable, be made by the Committee at the end of each month in arrears, and an appropriate proportion of the amount for a full month shall be paid where the claimant is entitled to a payment for part only of a month.

Changes of circumstances

26E.—(1) A claimant shall notify the Committee in writing immediately of any changes in his circumstances which he might reasonably be expected to know might affect his entitlement to, or the amount of, any payment made or to be made to him by the Committee, and in particular of any erasure, immediate suspension or termination of suspension of his registration.

(2) Where the Committee considers, whether or not following a notification under paragraph (1), that there has been a change of circumstances affecting a claimant's payments it shall make the adjustment as respects those payments which is appropriate to take account of that change.

Overpayments

26F. Where the Committee considers that a payment has been made to a person owing to an error or in circumstances where it was not due it shall, except to the extent

that the Secretary of State on the Committee's application directs otherwise, draw the overpayment to the attention of that person and—

- (a) where he admits the overpayment; or
- (b) where he does not admit the overpayment but, the matter having been referred under regulation 6(6)(a) of the National Health Service (Service Committees and Tribunal) Regulations 1974 (a) for investigation, the Committee, or the Secretary of State on appeal, decides that there has been an overpayment,

the overpayment shall be recoverable either by deduction from that person's remuneration or payments or in some other manner.”.

Signed by authority of the Secretary of State for Social Services.

Tony Newton

22nd April 1987

Minister of State, Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Dental Services) Regulations 1973 (“the principal Regulations”) by the insertion of a new Part VIA into those Regulations. They make provision for payments to be made to dentists whose registration under the Dentists Act 1984 is suspended by an interim suspension order or by a direction or an order of the Health Committee. Under section 35(3) of the National Health Service Act 1977 a dentist with whom arrangements have been made for the provision of general dental services whose registration is so suspended may not provide the services in person during the suspension, though the suspension does not terminate the arrangements.

Provision is made by these Regulations in particular for the following matters—

- (a) entitlement to payments (regulation 26B of the principal Regulations), including restrictions on entitlement (regulation 26B(2) and (3));
- (b) application for payments (regulation 26C of the principal Regulations);
- (c) the amount and the time of payments (regulation 26D of the principal Regulations); payment is at one of two rates according to the circumstances of the suspension, subject to a reduction in cases where the dentist has low earnings (regulation 26D(2)) or has been on the dental list of a Family Practitioner Committee for less than two years (regulation 26D(3));
- (d) changes in circumstances (regulation 26E of the principal Regulations);
- (e) overpayments (regulation 26F of the principal Regulations).

(a) S.I. 1974/455, to which there are amendments not relevant to these regulations.

85p net

ISBN 0 11 076736 5