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STATUTORY INSTRUMENTS

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**1998 No. 2222**

**NATIONAL HEALTH SERVICE,  
ENGLAND AND WALES**

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

*Made* - - - - *10th September 1998*  
*Laid before Parliament* *10th September 1998*  
*Coming into force* - - *1st October 1998*

The Secretary of State for Health, in exercise of powers conferred on him by sections 28G, 36(1) (c), 50 and 126(4) of the National Health Service Act 1977(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) Regulations 1998 and shall come into force on 1st October 1998.

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

“the 1977 Act” means the National Health Service Act 1977;

“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 Service (General Dental Services) Regulations 1992(3);

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

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

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(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 28G is inserted (from 1st October 1998) by section 24(1) of the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”). Section 36(1) was so numbered by the Health and Social Security Act 1984 (c. 48), Schedule 3, paragraph 5(1) and amended by S.I. 1981/432, article 3(3)(a); by S.I. 1985/39, article 7(10); by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 4; by the 1990 Act, section 24; and by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 25(a). Section 126(4) was amended by the 1990 Act, section 65(2).

(2) 1997 c. 46.

(3) S.I. 1992/661; amended by S.I. 1992/1509, 1993/2209, 1993/3172, 1995/3092, 1996/704, 1996/2051 and 1998/1648.

(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) and make an application to that dentist.

(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 may 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 adult person who has care of the child;

(b) on behalf of any person under the age of 18 (“A”)—

(i) by a person duly authorised by a local authority to whose care A has been committed under the provisions of the Children Act 1989<sup>(6)</sup>;

(ii) by a person duly authorised by a voluntary organisation by which A is being accommodated under the provisions of that Act;

(c) on behalf of any adult person who is incapable of making such an application, by a relative or other adult person who has an interest in the welfare of that person;

(d) on behalf of any person detained in a prison or a young offender institution, by the governor or, in the case of a contracted out prison within the meaning of section 96 of the Criminal Justice and Public Order Act 1994<sup>(7)</sup>, the director or controller, as the case may be.

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(4) “General dental services” has the meaning given to it in section 35(1A) of the National Health Service Act 1977 (c. 49).

(5) “Personal dental services” has the meaning given to it in section 28C(7) of the 1977 Act.

(6) 1989 c. 41.

(7) 1994 c. 33.

## **Revocation**

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

10th September 1998

*Frank Dobson*  
One of Her Majesty's Principal Secretaries of  
State,  
Department of Health

**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) Regulations 1992 (“the GDS Regulations”) relating to the right (which from 1st October 1998 is set out in section 28G of the National Health Service Act 1977 (“the 1977 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 1977 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 may be made on behalf of someone else. Regulation 4 revokes the provisions of the GDS Regulations which these Regulations replace.